

**TCP/11/16(380)**  
**Planning Application – 15/00445/FLL – Erection of four wind turbines and ancillary works, Parks of Keillour Farm, Methven, PH1 3RB**

## **INDEX**

- (a) Notice of Review and Statement Submitted by the Applicant (**Pages 65-142**)  
All other papers supplied by the applicant are available online [www.pkc.gov.uk/LRB380](http://www.pkc.gov.uk/LRB380)
- (b) Decision Notice (**Pages 145-146**)  
Report of Handling (**Pages 147-176**)



**TCP/11/16(380)**  
**Planning Application – 15/00445/FLL – Erection of four**  
**wind turbines and ancillary works, Parks of Keillour Farm,**  
**Methven, PH1 3RB**

**NOTICE OF REVIEW AND STATEMENT  
SUBMITTED BY THE  
APPLICANT**



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

## Applicant(s)

Name **MICHAEL C R STAMFORD**

Address **490 EARLHAM ROAD  
NORWICH  
NORFOLK  
NR4 7HP**

Contact Telephone 1 **[REDACTED]**  
Contact Telephone 2 **[REDACTED]**  
Fax No **-**

E-mail\* **[REDACTED]**

## Agent (if any)

Name **[REDACTED]**

Address **[REDACTED]**

Contact Telephone 1 **[REDACTED]**  
Contact Telephone 2 **[REDACTED]**  
Fax No **[REDACTED]**

E-mail\* **[REDACTED]**

Mark this box to confirm all contact should be  
through this representative: ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

**PERTH & KINROSS COUNCIL**

Planning authority's application reference number

**15/00445/FLL**

Site address

**PARKS OF KEILLOUR, METHVEN, PERTH PH13 8B**

Description of proposed  
development

**TO ERECT 4 WIND TURBINES OF UP TO 3 MW EACH  
+ ASSOCIATED INFRASTRUCTURE AT PARKS OF KEILLOUR**

Date of application  
**VALIDATED**

**17 MARCH 2015  
25 MARCH 2015**

Date of decision (if any)

**15 JULY 2015**

Note. This notice must be served on the planning authority within three months of the date of the decision  
notice or from the date of expiry of the period allowed for determining the application.



**Nature of application**

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**Reasons for seeking review**

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☐
2. One or more hearing sessions ☐
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☒

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

*NONE*



**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE SEE ATTACHED  
'NOTICE OF REVIEW STATEMENT'

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.



## List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. THIS NOTICE OF REVIEW & THE ORIGINAL PLANNING APPLICATION DOCUMENT
  2. NOTICE OF REVIEW STATEMENT (ATTACHED)
  3. DECISION NOTICE DATED 15 JULY 2015
  4. REPORT OF DELEGATED HANDLING BY COUNCIL OFFICIALS.
  5. MINUTES OF PRE-APPLICATION MEETINGS IN NOVEMBER 2014 & DECEMBER 2014.
  - 6A. FREEDOM OF INFORMATION REQUESTS UNDER FREEDOM OF INFORMATION SCOTLAND
  - 6B. ALL SCOTTISH PLANNING POLICY DOCUMENTS (INC. SP, NPF3 ETC) + LDP. ACT 2002.
  7. ECONOMIC IMPACTS OF WIND FARMS ON SCOTTISH TOURISM 2008.
  8. ALL SEVEN VOLUMES OF THE ENVIRONMENTAL IMPACT ASSESSMENT FOR PARKS OF KEILLOUR
  9. SCOTTISH GOVT'S GOOD PRACTICE DOCUMENT 'SHARED OWNERSHIP OF ONSHORE RENEWABLE ENERGY DEVELOPMENTS'
  10. ECONOMIC BENEFITS OF ON-FARM WIND ENERGY CLUSTERS IN ABERDEENSHIRE
- Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.
11. RE-ISSUED SNH ADVICE LETTER DATED 4 SEPTEMBER 2015.

## Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

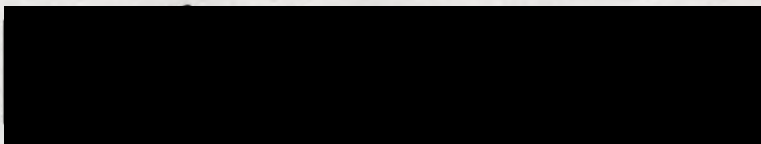
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review (IN ATTACHED NOTICE OF REVIEW STATEMENT)
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

## Declaration

I the applicant/agent ~~[delete as appropriate]~~ hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



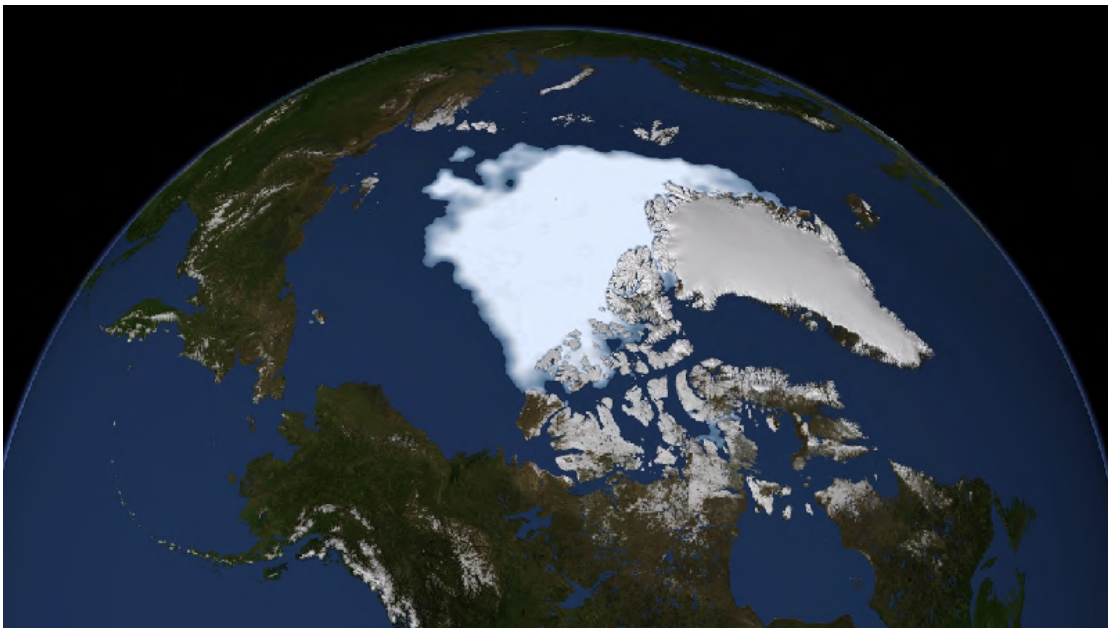
Date

30 September 2015





**Notice of Review Statement**  
for  
**Local Review Board**  
at  
**Perth & Kinross Council**




**Parks of Keillour Wind Turbine**  
**Cluster**


**September 2015**

## SCOTLAND : THE GREEN POWERHOUSE OF EUROPE


*“The decisions we make now will determine the future of our economy and our climate. If we choose low carbon investment, we can generate strong, high-quality growth – not just in the future, but now. But if we continue down the high carbon route, climate change will bring severe risks to long-term prosperity.”*

(Lord Nicholas Stern, Co-Chair of the Global Commission on the World Economy and Climate Change, 2014)

*“Across all scales of renewable generation, from householder to community to large-scale commercial schemes, the Scottish Government is working to make Scotland the renewables powerhouse of Europe. The benefits are not only in terms of energy generation and future security of supply, but can underpin our economic recovery over the next decade and beyond”.* (Scottish Government’s 2020 Route-map, published July 2011) 

*“The Government is committed to the continued expansion of portfolio of onshore wind farms to help meet renewables targets, with a robust planning system providing spatial guidance, a clear policy framework and together with a timely and efficient processing of Section 36 Electricity Act and planning applications...Onshore wind turbines can make a very large contribution to the progress to Scotland’s renewable electricity target, and help establish Scotland’s reputation as rapidly becoming the green powerhouse of Europe thanks to its underlying political commitment to make it happen”.*(Scottish Government’s 2020 Route-map, published July 2011) 

**Paragraph 14** states that the Scottish Government’s 2020 target:

*“is a challenge – to the energy supply sector, to our renewable industry and innovators and to Scotland’s communities; it is both a statement of intent and a rallying call, embodying our firm belief that Scotland can and must exploit its huge renewables potential to the fullest possible extent – to help meet demand here and in Europe. It is as much about the value and importance of the journey as it is about the destination”.* 

*“Meeting the renewable electricity target by 2020 relies on the continued expansion of wind technology...To meet the 2020 target, average annual increases in installed capacity need to double”.*

2020 Route-map for Renewable Energy in Scotland – Update (2013) 



## EXECUTIVE SUMMARY

This Review Statement has been prepared by Stamford Renewables Ltd to support a request for the review of the decision made by Perth & Kinross Council on 15 July 2015 to refuse full planning permission for the erection of four wind turbines, of up to 3MW rated output capacity each, access tracks and associated infrastructure on land at Parks of Keillour, Nr Methven, Perth PH1 3RB (Planning reference: 15/00445/FLL).

The application was refused on the same day that a very similar application for four wind turbines of up to 2.3MW rated output capacity each, access tracks and associated infrastructure, on land at Binn Farm, Glenfarg, was unanimously granted planning approval by Perth & Kinross Council (Planning reference: 14/01970/FLL).

This 'Notice of Review Statement' explains that the Council's judgement was applied inconsistently by unelected officials using delegated powers inappropriately in order to deny the Appellant the opportunity of appeal to Scottish Ministers, when a very similar wind turbine development at Glenfarg was approved unanimously, the same day, by the Council's Development Management Committee.

At 125m to tip height the proposed four wind turbines at Parks of Keillour would be similar in scale and height to the wind turbines at North Calliachar (127m to tip height), and 10m taller than the four turbines approved for Binn Farm Glenfarg (115m to tip height) on 15 July 2015.

The proposed Parks of Keillour Wind Turbine Cluster would be located within the Lowland Hills: the Keillour Forest Landscape Character Area, which is an area of lowland Strathearn and is not designated for landscape reasons.

The David Tyldesley & Associates Report [2010] (abbreviated hereafter as 'DTA 2010'), commissioned specifically for the Perth & Kinross Council, advised that this area had some capacity for wind farm development. In fact, DTA 2010 advised that the area was of **low sensitivity** and may be suitable for **a cluster of turbines (3 – 7 turbines up to 120m high) and less than 20MW rated output capacity**. DTA 2010 is an important material consideration, but was only given limited weight by the Council Officials, who also misinterpreted key elements of DTA 2010.

This critical last clause: "*a cluster of 3 – 7 turbines up to 120m (about 6-14MW)*" was omitted by the Planning Officer in his Delegated Handling Report recommending refusal, and this 'Notice of Statement of Review' explains that Council Officials made a gross error of judgement, in not putting the application in front of the Development Management Committee, in the light of the complex aspects of the proposal. Lack of experience and lack of qualifications may have lead to the Council Officials being confused about the relevant height threshold specified in DTA 2010. The critical point is that the Council Officials greatly downplayed the current capacity of the surrounding landscape to accommodate the proposal by mis-quoting DTA

2010, a seminal guidance document and recording that mis-quote in their Handling Report.

The Council Officials needed professional advice on Landscape and Visual Impact Assessment (LVIA) before reaching such conclusions and there is no evidence in writing that this advice was ever sought or provided (see **PKC responses to FOI Requests from the Appellant at Productions 4 & 12**). This assertion is supported by the following key factors:

- **Firstly**, there is no written report from the PKC Landscape Officer Douglas Cook (who is a qualified Landscape Architect) to the Planning Officer Steve Callan. It transpired after a request had been made by the Appellant under the Freedom of Information Act Scotland 2002 that only verbal, unrecorded discussions took place between PKC's Landscape Officer and PKC's Planning Officer.
- **Secondly**, the Council Officials didn't follow the advice of SNH, Battleby Perth, to seek design resolution.
- **Thirdly**, the Council Officials criticised the layout of the development proposal and, by doing so, ignored the advice of SNH which explained that *"the horizontal extent and layout of the development would likely be in keeping with the surrounding landscape character"* (SNH Advice Letters dated 13 July 2015 and 4 September 2015).
- **Fourthly**, in the light of the range of retracted criticisms made by SNH in their 4 September 2015 re-issued advice letter, the relevant PKC Council Officials of the Planning Authority should now be given the opportunity by the Local Review Board (LRB) to re-craft the LVIA assessment in the Handling Report or for the retracted criticisms to be made subject of a special report to the LRB, so that the LRB can re-craft the findings. Many of the retracted criticisms by SNH (a significant amount of which were targetted at the Appellant's Viewpoint Analyses) were copied into the Handling Report by the Planning Officer. However, they are no longer valid and cannot be left uncorrected by the LRB. The Handling Report must now be redacted to provide a true and accurate record of the professional advice received from SNH.
- **Finally**, the Council Officials made no detailed professional assessment of the recently designated Special Landscape Areas (of which the proposed development site is not actually one). The conclusions all seemed to say that the development 'could' have an unacceptable effect on nearby Special Landscape Areas (SLAs), but never actually demonstrated it. In fact, the conclusions were based on unsubstantiated judgement and unqualified assessment made from a desk-top perspective. Consequently, the Appellant should now be given the opportunity to carry out an LVIA assessment on the new SLA Guidance published on 17 June 2015, if the application is to be given a fair hearing. The SLAs were not in existence when the Planning Application was submitted in March 2015, so the Appellant was simply unable to make



an assessment at the time. This time-lapse factor should not be allowed by the LRB to disadvantage the Appellant which it currently does.

### **Planning Officer incorrectly states height threshold for area**

As mentioned earlier, the Planning Officer's Report left the reader believing, incorrectly, that the 100m height criteria which applied to wind farms of over 20MW, was the correct measurement threshold for the Parks of Keillour development. It was not. The correct cluster criteria specified for the type of Development planned for Parks of Keillour (12MW) was actually **120 metres in height**.

### **Height threshold error duplicated by SNH**

The LVIA assessment was a catalogue of errors by the Council Officials and the height threshold error was also duplicated by Denise Reed of SNH who failed to realise that the Parks of Keillour development (at 12 MW) had a smaller rated output capacity than 20MW and thus applied the incorrect height capacity of the landscape in her assessment. Both Denise Reed of SNH and the Council Officials made the same error in their texts. SNH were subsequently asked by the Appellant to correct this error, in August 2015, and SNH withdrew a range of criticisms in a re-issued letter of 4 September 2015. However, they failed to correct the 100 metre threshold error.

### **SNH advice letter re-issued on 4 September 2015**

The SNH advice letter was reduced in length by approximately one third and retracted a range of criticisms, which underscores the importance of Planning Officers and Development Quality Managers seeking professional qualified advice before hurrying to conclusions. However, the Planning Officer's corresponding criticisms (which now need retracting) remain uncorrected, giving now a false view of the overall Landscape and Visual Impact assessed by the Council Officials. The application remains in a state of being, firstly, 'Refused by Delegated Powers', and secondly, with its Handling Report riddled with errors making unsafe and unable to withstand scrutiny of an Appeal Body (in this case the Local Review Board). The Handling Report must now be re-written or amended by the LRB.

### **Planning Application should have been heard by Development Management Control Committee**

Finally, this 'Notice of Statement of Review' contends that in the event that the two Council officials from Perth & Kinross Council had allowed the Parks of Keillour planning application to be considered by elected members of the PKC Development Management Committee, the proposed development could and should have gained planning permission in the same way the Binn Farm, Glenfarg application **had unanimously gained planning permission on the same day, 15 July 2015**. Both applications were very similar. The Local Review Board is now called upon to reverse the decision of the two Council Officials and implement one of the four recommended 'Remedy Options' at Part 9 to this Statement of Review.

## DOCUMENT GUIDANCE

This Review Statement has been prepared in line with the requirements set out in the following documents:

- Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments.
- The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- Circular 7/2009 Schemes of delegation and Local Reviews



# CONTENTS

	PAGES
1. EXECUTIVE SUMMARY	3-5
2. CONTENTS	7
3. PRODUCTIONS	8
4. PART 1: Introduction	9-14
• Scope of this Statement	9
• Reason for Refusal 1 – Summary of Contention	12
• Reason for Refusal 2 – Summary of Contention	12
• Reason for Refusal 3 – Summary of Contention	13
• Reason for Refusal 4 – Summary of Contention	13
• Reason for Refusal 5 – Summary of Contention	14
5. PART 2: The Proposed Development	15-19
6. PART 3: Planning Case History (Summary)	20-23
7. PART 4: Comparative Summary of Two Similar Applications (Parks of Keillour and Binn Farm, Glenfarg)	24-28
8. PART 5: Summary of Landscape and Visual Effects	29-39
9. PART 6: Full Appraisal of the Council's Reasons for Refusal	40-60
10. PART 7: Community Benefit Investment Opportunity & Economics	61-65
11. PART 8: Conclusions	66-69
12. PART 9 : Remedies	70-71

# LIST OF PRODUCTIONS

1. Parks of Keillour Decision Notice dated 15 July 2015.
2. Report of Delegated Handling, by PKC Planning Officer, Steve Callan.
3. Environmental Impact Assessment (Volumes 1-7) produced by Appellant, which accompanies this Notice of Review.
4. Freedom of Information Requests from Appellant (2015).
5. Scottish Government's Good Practice Document entitled '*Shared Ownership of Onshore Renewable Energy Developments.*' issued in September 2015.
6. Relevant Extracts from David Tyldesley and Associates 2010 Study (part of PKC Strategic Development Framework).
7. The Economic Benefits of on-farm Wind Energy Clusters in Aberdeen (2010).
8. Minutes of Pre-Application Meeting (November 2014) between Appellant & PKC Planning Officer.
9. Minutes of Pre-Application Meeting (December 2014) between Appellant & PKC Planning Officer & PKC Landscape Officer.
10. Re-issued Advice Letter from SNH retracting previous criticisms (4 September 2015).
11. The Economic impacts of Wind Farms on Scottish Tourism (2008).
12. E-mails between the PKC Planning Officer Steve Callan and the PKC Landscape Officer Douglas Cook requested under the *Freedom of Information Act Scotland 2002*.



# PART 1. INTRODUCTION

## Background

This 'Notice of Review Statement' has been prepared by Stamford Renewables Ltd to support a request for a review of the decision made by Perth & Kinross Council (PKC) to refuse full planning permission for the erection of up to four wind turbines, of up to 3 MW, rated output capacity, each, up to a blade tip height of 125 metres, plus access tracks and associated infrastructure, on land at Parks of Keillour, Nr Methven, Perth PH1 3RB.

## Length of time in the PKC Planning Process

The Parks of Keillour planning application 15/00445/FLL was registered as received by PKC on 17 March 2015, validated by PKC on 25 March 2015 and a site inspection was carried out on 15 April 2015. The application was determined by Council Officials, under delegated powers, with a decision notice issued (1) electronically on 15 July 2015 and then (2) on paper on 16 July 2015. The Decision Notice is included as **Production 1** and the Council Officers' Report of Delegated Handling is at **Production 2**.

# SCOPE OF THIS STATEMENT

In line with the *Notice of Review Form - Guidance Notes*, published by Perth & Kinross Council, this statement sets out full details of the Appellant's reasons for requesting a review of the Council's decision by a Local Review Board. The Appellant has no rights of audience at the Local Review Board and so respectfully reserves the right to expand upon this statement and respond to any statements of the planning authority or third parties.

# STATED REASONS FOR REFUSAL

To briefly re-iterate the contents of the Decision Notice dated, 15 July 2015 (**Production 1**), the two Council Officers from Perth & Kinross Council stated five reasons for refusal as follows:

1. *"The proposal by virtue of the location, dominance, scale and layout of the proposed wind farm would result in unacceptable adverse landscape impacts having regard to landscape character and setting within the immediate landscape and wider landscape character types contrary to Policy 6 of TAYplan and Policies ER1A (a), ER6*

*(a) (b) of the Perth and Kinross Development Plan.*

2. *The location, dominance, scale and layout of the proposed wind farm, the proposal would result in unacceptable visual impacts. Accordingly the proposal is contrary to Policies ER1A (a), ER6 (a) (b) (c) (f) of the Perth and Kinross Development Plan 2014.*
3. *The proposal by virtue of the location, prominence, scale and layout of the proposed wind farm and its relationship to other wind turbine developments in the area would give rise to unacceptable cumulative landscape and visual impacts. Accordingly the application is contrary to TAYplan Policy 6 and Policies ER1A (a) (h), ER6 (a) (b) (c) of the Perth and Kinross Development Plan 2014.*
4. *The development does not contribute positively, to the quality of the surrounding built and natural environment as the design, siting and scale of the development does not respect the character and amenity of the Strathearn area of Perthshire and is contrary to policy PM1A of the Perth and Kinross Local Development Plan 2014.*
5. *The application is contrary to Perth and Kinross Council's Supplementary Guidance on Landscape June 2015 as the proposed visual impact will adversely affect the special landscape quality of the designated Special Landscape Areas of Glenalmond and Sma'Glen; Upper Strathearn; Ochil Hills; and Sidlaw Hills.*

## **Justification**

*The proposal is not considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from."*

# **REASONS FOR SEEKING A REVIEW**

## **Flawed Assessment by Council Officers**

The reasons given by Perth & Kinross Council, (or more precisely, the two Council Officials deciding under delegated powers) to refuse the proposed development, are based on subjective opinions of the landscape, and a flawed unqualified assessment of zones of visual influence, fuelled by theoretical visual and cumulative visual impact evaluations of the project, which are not fully endorsed by the following:

- Advice from SNH, Battleby, Perth;
- Any detailed assessment in the field by the qualified professionals either employed by PKC or appointed by PKC;
- The detailed independent assessment in the field by AMEC Foster Wheeler of Glasgow (professionally qualified landscape architects) appointed by the Appellant;



- The David Tyldesley & Associates Report (DTA 2010), commissioned specifically for Perth & Kinross Council (PKC);
- Scottish Planning Policy;
- The Perth & Kinross Local Development Plan (2014).

The Council's assessment of impacts was underpinned by:

- Personal, unsubstantiated judgements of Planning Policy Documents;
- Rejection of specialist professional advice on LVIA matters;
- A raft of theoretical evidence, but very little empirical evidence emanating from detailed work carried out on the ground by the relevant Council Officials or their appointees.

### **A Rushed Desk-top Refusal**

This was a rushed, desk-top refusal. The two Council Officials not only, pre-judged the Parks of Keillour planning application (see e-mails from the Planning Officer, Steve Callan, at **Production 12**) but also either ignored or over-exaggerated the professional advice of Scottish Natural Heritage (SNH) who were the expert statutory consultee on matters of Landscape and Visual Impact Assessment (LVIA), in a rush to beat the 4-month-expiry deadline of the Planning Application. The only significant point on which there was full agreement between SNH and PKC was the scale of the turbines. Both thought that the blade tip height would be too high at 125 metres (80 metre high tower + 45 metre blades). However, no formal approach was made by the Council Officials, to the Appellant, to request a reduction in height of the turbines.

### **Rejection of Professional Advice & Engagement Process**

Furthermore, the Council Officials did not agree with the professionally qualified advice of AMEC Foster Wheeler (AMEC FW) set out in the LVIA (contained in the Appellant's Environmental Statement at **Production 3**). AMEC FW were the only professionals to carry out a detailed study of the LVIA on the ground. At no stage between March 2015 and July 2015 did the PKC Planning Officer, Steve Callan, do any of the following:

- Obtain written advice from his own Landscape Officer, Douglas Cook to support his own rejection of professional advice from AMEC FW;
- Commission other independent consultants to provide an alternative detailed assessment of the proposed development;
- Seek further information from the Appellant or from the Appellant's Consultants AMEC FW about the location, scale or layout of the proposed development;
- Take the lead in engaging with the Appellant to seek out possibilities of mitigation, either at the pre-application stage or during the March – July 2015 period;
- Seek any design resolution.

## Simple Questions of Scale not answered in Pre-Application Meetings

In fact, the lead was taken the entire time by the Appellant whose attempts, in the pre-Application stages, to obtain a simple answer to the question “What height/scale would be acceptable to PKC?” were frustrated either by the repeated absence of the Landscape Officer from planned meetings or by non-committal responses. There was an inability to answer the question or comment in any way, said the Council Officials, until the EIA had been presented with the full Planning Application (see **Production 12**). However, even after the Planning Application had been submitted, the Landscape Officer still failed to engage with the Appellant in order to discuss any aspects of the case, between March 2015 and July 2015. For a planning fee of £20,500, the Appellant received poor service from the Council Officials concerned, who at no stage sought design resolution. (See minutes of Pre-Application Meetings in November 2014 and December 2014 at **Productions 8 & 9**)

## REASON FOR REFUSAL 1 – SUMMARY OF CONTENTION

The Appellant contends the assessment by the Council Officials that *the location, dominance, scale and layout of the proposed development would result in unacceptable adverse landscape impacts having regard to landscape character and setting*, is flawed, over-stated and based on unsubstantiated judgment and subjective opinion. Overall the main significant landscape impacts would be localised and would be appreciated by a relatively limited number of people many of whom (within 2km) support the proposed development. No attempt was made to carry out a systematic and thorough balancing exercise with the many critical benefits arising from this development which would most likely have outweighed the landscape impact concerns, on the evidence of both the North Calliachar (7 turbines) and the Binn Farm (4 turbines) planning approvals. Furthermore, had the application been given a chance of a fair hearing and put before the elected members on the PKC Development Management Committee, (who approved an very similar application at Binn Farm, Glenfarg on the morning of the same day, 15 July 2015) the planning balance would have been more carefully and more fairly weighed. The presumption in favour of sustainable development was completely ignored by the two unelected officials. A fuller appraisal and evaluation of this reason for refusal is detailed at part 6 to this Notice of Review.

## REASON FOR REFUSAL 2 – SUMMARY OF CONTENTION

The Appellant contends that the assessment by the Council Officials that *the location, dominance, scale and layout of the proposed development would result in unacceptable visual impacts*, is flawed (based on an unprofessional and superficial interpretation of Zones of Theoretical Visual Influence), and over-stated, in the light of the withdrawal by SNH of the criticisms of the Appellant’s Viewpoints. Their final assessment of visual impacts was based on personal judgment and subjective opinion. Interestingly the Council Officials do not use the word ‘adverse’ in their reason for refusal. The preferred word of justification was ‘unacceptable’. However, in spite of

such a bold claim, the Council Officers failed to provide a properly reasoned explanation of why they considered the visual impacts to be unacceptable. Planning harm was not explained. Paradoxically, and in reality, the main significant visual impacts would be localised and would be appreciated by a relatively limited number of people many of whom (within 2km) supported the proposed development.

### **REASON FOR REFUSAL 3 – SUMMARY OF CONTENTION**

The Appellant contends that the assessment by the Council Officials that *the location, dominance, scale and layout of the proposed development would result in unacceptable cumulative visual impacts*, is flawed (based on an unprofessional and superficial interpretation of ZTVs), is over-stated and is based on unsubstantiated judgment and subjective opinion. The assertion of “*unacceptable cumulative impacts*”, by the Council Officials, is not supported by reasoned justification. On the contrary, the evidence points to the effects of the proposed development being acceptable. PKC has not yet completed and published its Spatial Framework for onshore wind development, and yet the two Council Officials chose, in this case, to ignore the advice derived from decisions by Scottish Ministers on Cumulative Assessment (*see Decision Notice supporting the 7 turbine development at North Calliachar in March 2015, PPA-340-2087*). The policy approach by Council Officials to imply a required PKC spatial separation of over 15km between each wind power development, regardless of the extent of inter-visibility, draws no support from any previous decisions by Scottish Ministers, the Development Plan or National Planning Policy and Guidance. Overall the main significant visual impacts are localised and would be appreciated by a relatively limited number of people many of whom (within 2km) supported the proposed development.

### **REASON FOR REFUSAL 4 – SUMMARY OF CONTENTION**

The Appellant contends that the assessment by the Council Officials that *the development does not contribute positively to the quality of the surrounding built and natural environment as the design, siting and scale of the development does not respect the character and amenity of the Strathearn area*, is flawed, over-stated and based on unsubstantiated judgment and subjective opinion. It is not supported by Planning Policy. No attempt was made to carry out a proper balancing exercise the with many substantive benefits which would most likely have outweighed the contributory concerns, had the matter been put before the elected members on the Development Management Committee, who approved a very similar application at Binn Farm on the same day, 15 July 2015. Furthermore, the presumption in favour of development that contributes to sustainable development was completely ignored. Similarly, the SPP and NPF3 were ignored. A fuller appraisal and evaluation of this reason for refusal is detailed at part 6 to this Notice of Review.

### **REASON FOR REFUSAL 5 – SUMMARY CONTENTION**

The Appellant contends that the assessment by the Council Officials that the proposed development will *adversely impact the special landscape quality of the*



*designated Special Landscape Areas of Glenalmond and Sma' Glen; Upper Strathearn; Ochil Hills and Sidlaw Hills*, is the most artificial reason for refusal. Like the previous four reasons it is professionally flawed, over-stated and based on unsubstantiated judgment and subjective opinion. Furthermore, it emanates from the '*PKC Supplementary Guidance on Landscape*' which was adopted by the Council on 17 June 2015, just 28 days before the Decision Notice was issued for this Planning Application, and almost three months after the Planning Application had actually been submitted, subsequently registered on 17 March 2015 and then validated on 25 March 2015. No opportunity was given to the Appellant to address and assess the relevance and applicability of this new piece of guidance. This is considered to have been unprofessional conduct on the part of the Council Officials and appears to have been designed to ambush the Appellant. Indeed, this matter alone should have prompted the Planning Officer to put this application before the Development Management Committee (DMC) on 15 July 2015 or at least to the subsequent DMC meeting in August 2015. The Appellant calls upon the Local Review Board to use its power to put this matter right.

# **PART 2**

## **THE PROPOSED DEVELOPMENT**



# PART 2. PROPOSED DEVELOPMENT

## Infrastructure

The proposed wind power development involves the installation and operation of four wind turbines, a meteorological mast, hard-standings, access tracks, and associated infrastructure on 5.2 hectares of privately owned registered farm land (PTH 34462) at Parks of Keillour PH1 3RB (predominantly grazing land), approximately 9 miles west of Perth and 9 miles east of Crieff.

## Grid Reference

The Development Site is located within the Perth & Kinross Council Area and is centred on National Grid Reference (NGR) E297268, N726607.

## Site Heavily Screened

The site area is surrounded by existing forestry and woodland to the north and east by Keillour Forest and further woodland and forestry to the west and south: Gorthy Wood, Keillour Castle and Den of Keillour along the Keillour Burn. The site is bounded by a minor road to the southwest and a farm track / core path, lined with trees to the south which provides access to Parks of Keillour Farm. A line of 132kV electricity pylons crosses the south-western part of the site. The proposed development site is significantly screened by topography, built form, hedgerows, trees and other vegetation from many close range, intermediate and long range views. Indeed, the extent of screening made the act of capturing images (for subsequent development into photomontages) extremely difficult in the field. A range of viewpoints had to be micro-sited in fields to avoid the significant screening from hedges, trees and built form, spoiling or distorting the photomontages. If half your field of view is screened by hedgerow or trees, from your agreed point of image capture, then the final photomontage will only show 2 out of 4 of the wind turbines and risks criticism of being a poor representation. Long range views from the A9 were all selected on a worst case basis, often reliant on finding a gap in the screening. From the locations from which the Highland Boundary Fault (HBF) was more visible and prominent than normal, the viewpoint locations were nearly all screened by woodland and topography, thus mitigating the impact on the Highland Boundary Fault. Only detailed assessment on the ground could have revealed the extent of this screening, which is particularly heavy to the West, North and East of the development site. The development is completely invisible when viewed from Glenalmond College a few kilometres to the north.

## Low Natural Heritage Sensitivity

The site is located to the north of the A85 and to the west of the village of Methven. A detailed CAD Drawing of the site is shown in Chapters 3, 4 & 5 of Volume 2, the Environmental Statement (ES), in A4 colour format, and again in Volume 4 (which



contains Figures to the Environmental Statement) in a larger A3 colour format (see **Production 3**). The Site is located in a Zone 1 area of [‘lowest natural heritage sensitivity’](#). Landscape change is recognised as an appropriate objective of Zone 1 Areas as defined by Scottish Natural Heritage (SNH) in their guidance document: *‘Strategic Locational Guidance for Onshore Wind Farms in respect of the Natural Heritage’ 02/02 SNH (March 2009 Update)*.

### **Low Landscape Sensitivity**

The proposed Parks of Keillour Wind Turbine Cluster is located within the Lowland Hills: Keillour Forest LCA, an area of lowland Strathearn which is not designated for landscape reasons.

### **Outwith the buffers of the Highland Boundary Fault & Simple Design**

The proposed Development is outwith the buffers suggested in the DTA 2010 report around the Highland Boundary Fault and iconic viewpoints, and is some distance away from the main principal tourist and amenity routes, including the A822 National Tourist Route.

### **No impact on National Parks or National Scenic Areas**

There would be no significant effects on designated landscapes including Loch Lomond and the Trossachs National Park or National Scenic Areas and no views of the proposed Development from any Wild Land Areas.

### **Impact on Landscape Character Area**

In terms of landscape effects the proposed Development would only significantly affect part of the ‘host’ landscape character (Lowland Hills: Keillour Forest LCA) and the visual character of the views from the northern part of Glenalmond, along the B8063. However, the site is not designated and there are no landscape designations within 10km of the proposed development.

### **Impact on Special Landscape Areas**

There would be no significant effects on locally Special Landscape Areas created on 17 June 2015. The site does not fall within a PKC Special Landscape Area. The impact on neighbouring SLAs is dealt with in Part 5 to this Review Statement and has been assessed as not significant.

### **Impact on Historic Landscape**

In terms of historic landscape, no objections were made by Historic Scotland.

### **Significant Visual Effects limited to 4km distance**

Viewpoint analysis indicates that significant visual effects would be limited to approximately 4km distance from the proposed turbines.

### **Cumulative Effects Limited and Not Significant**

Cumulative effects would be limited and not significant due to the degree of separation (over 15km) between this proposal and other wind farm developments within the wide Study Area. Nearest operational wind farm is Griffin 18km to the north and the nearest consented wind farm is the Burnfoot Hill Windfarm Extension at 24 km to the south.

### **Application is Consistent with Guidance**

The proposed Parks of Keillour Wind Turbine Cluster is regarded by the Appellant as consistent with the guidance set out in DTA 2010.

## **PROJECT DESCRIPTION – KEY CHARACTERISTICS**

### **Candidate Turbine**

Assessments for the impacts of the four turbines at Parks of Keillour have been based predominantly upon the Danish Vestas V90 3.0MW wind turbine, which fits the dimensions envelope described in this ES, and is designated as the ‘*candidate model wind turbine*’ for the proposed wind turbine cluster development at Parks of Keillour, PH1 3RB.

### **Powering 4,900 Homes in Perth & Kinross**

Four Vestas V90 3.0MW wind turbines would have a total rated output capacity of 12MW, and given the expected wind speeds on site, would generate an annual average of at least 27,330 MWh of electricity (based on a 26% Load Factor), meeting the equivalent average annual electricity needs of over 4,900 homes in Perth & Kinross.

### **Small but Important Contribution to Scottish Targets**

Encouraging distributed renewable generation, capable of powering the equivalent of four thousand nine hundred homes per annum, would constitute a significant commitment by Perth and Kinross Council toward the Scottish target of providing 100% of its electricity supply from renewable energy sources by 2020. To reach this target annual increases in installed onshore wind power capacity need to double over the next 5 year period.

*“Meeting the renewable electricity target by 2020 relies on the continued expansion of wind technology...To meet the 2020 target, average annual increases in installed capacity need to double”.*

*Source: 2020 Route-map for Renewable Energy in Scotland – Update (2013)*

## **Landscape Benefit from Hedgerow and Tree Planting**

During pre-application discussions in 2014, (between the Appellant and Council Officials), the opportunity to provide landscape benefit was discussed in the light of the PKC Green Infrastructure Policy. The Appellant undertook to fund and implement a programme of new tree and hedgerow planting along the western and southern perimeters of the Development Site, in order to (1) screen the proposed electricity sub-station from all round view and to (2) re-vitalise the road-side hedgerow. This was accepted by Council Officials as a positive good practice measure to mitigate the impacts of the development on the surrounding landscape. However, this measure was clearly omitted from the decision-making process when the Council Officials reached the point of inserting 'Reason for Refusal 4' into the Decision Notice. It was not clearly analysed and afforded too much weight in the Handling Report, which is unhelpful because it would have been difficult to describe the proposed planting programme as anything other than a positive benefit to the Parks of Keillour landscape.

## **No Visual Impact from Grid Connection**

The connection of the wind turbines, and selection of the connection point to the Local Distribution Network (LDN) will be the responsibility of SSE, and the National Grid. However, Grid & LDN specialists, SOHN Associates, have already identified and three potential grid connection routes on behalf of SRL. As all 3 options identified use underground cabling, there will be no visual impact arising from electrical cabling activity.

## **Decommissioning after 25 years**

The application requested an operation period for the Parks of Keillour Wind Turbine Cluster of 25 years, after which the Proposed Development would be decommissioned.



# **PART 3**

## **SUMMARY OF PLANNING CASE HISTORY**



## PART 3. PLANNING CASE HISTORY

SER	DATE	PLANNING MILESTONES
		PRE-APPLICATION ACTIVITY
1	August 2014	<b>Scoping Report</b> submitted by Appellant (SRL) to PKC with request for Scoping Opinion to be issued by Perth & Kinross Council (PKC). Agreed by both SRL and PKC that an EIA was required.
2	29 August 2014	<b>PKC Community Engagement Officer Diane Cassidy</b> holds meeting with Appellant (SRL) and provides valuable advice on consultation procedures.
3	7-8 October 2014	<b>First Public Exhibition</b> on Parks of Keillour Development held over a two day period (1100 -2000 daily) at the Huntingtower Hotel Perth. Specialist presentations were provided by Dr NK Tovey Emeritus Reader at University of East Anglia, Norwich & Winner of the James Watt Gold Medal for Energy. Exhibition was publicised in four editions of the Dundee Courier and attended by both supporters and objectors to wind turbine development. The Appellant benefitted from the engagement with members of both Methven and East Strathearn Community Councils over the two day period of the Exhibition.
4	22 October 2014	<b>Scoping Opinion</b> issued by Perth & Kinross Council (PKC) advising on what should be included in the EIA by the Appellant.
5	4-5 November 2014	<b>Second Public Exhibition</b> on Parks of Keillour Development held over a two day period (1100-2000 daily) at the Huntingtower Hotel Perth. Specialist presentations from Dr NK Tovey Emeritus Reader at University of East Anglia, Norwich & Winner of the James Watt Gold Medal for Energy. Exhibition was publicised in four editions of the Dundee Courier, and attended by both supporters and objectors to wind turbine development. The Appellant benefitted once more from engagement with members of both Methven and East Strathearn Community Councils over the two day period of the Exhibition.
6	20 November 2014	<b>Pre-Application Meeting</b> between Appellant (SRL) and PKC Planning Officer, Steve Callan. In view of DTA 2010 Report Appellant asks what scale of turbine would be appropriate, but Council are non-committal and unable to advise and provide clear answer. (see <b>Production 8</b> attached)
7	20 November 2014	<b>Presentation and Discussion</b> about proposed Development, with East Strathearn and Methven Community Councils at Methven School (2030 – 2130). Information packages left with Secretaries.
8	3 December 2014	<b>Pre-Application Meeting</b> between Appellant (SRL) and Planning Officer, Steve Callan & PKC Landscape Officer Douglas Cook. Douglas Cook is a qualified Landscape Architect. In view of DTA 2010 Study, Appellant asks <u>again</u> what scale of turbine would be

		appropriate, but Council still are non-committal and unable to advise and provide clear answer. (see <b>Production 9</b> attached)
9	16 March 2015	Parks of Keillour Planning Application (supported by full EIA) is delivered by Courier to Pullar House, Perth & Kinross Council PH1 5GD
		<b>POST-APPLICATION SUBMISSION ACTIVITY</b>
10	17 March 2015	Parks of Keillour Planning Application (supported by full EIA) is registered at Pullar House, Perth & Kinross Council PH1 5GD.
11	25 March 2015	Parks of Keillour Planning Application + EIA validated at Pullar House, Perth & Kinross Council PH1 5GD.
12	23 June 2015	After 3 months in the Planning process, Planning Officer Steve Callan informs Appellant (SRL) that the application will be dealt with under delegated powers. He proceeds on leave the following day.
13	24 June – 5 July 2015 (incl)	PKC Planning Officer, Steve Callan on leave.
14	8 July 2015	<p>Planning Officer Steve Callan replies to Appellant's concerns about SNH and SEPA responses being <u>still outstanding</u> and the Appellant is informed by e-mail that <i>"To be honest even without SEPAs or SNH's comments we are looking at a refusal of the application as we as an authority have serious concerns on landscape and visual impact grounds. This along with ecology are normally the main issues where wind farm applications are refused in PKC"</i>. However, at the time this 8 July 2015 e-mail was written there was no written evidence from either the Council's Ecology Officer or the Council's Landscape Officer, Douglas Cook, that the Parks of Keillour scheme was considered to be unacceptable. Indeed, during the December 2014 pre-application meeting with the Appellant, (<b>Production 9</b>) the Landscape Officer had stated that the turbine heights would need to be similar to other surrounding schemes. The nearest wind farm site (Griffin 18km to the north) had turbines with blade tips as high as 124 metres. The 7 turbines approved for construction at North Calliachar 21km to the north west will have blade tip heights of 127 metres. Even though SNH had expressed concerns about the proposed blade tip height, they had not actually objected. So the Appellant felt comfortable with proposing 4 x blade tip heights of 125 metres. Frustratingly, there would now appear to be an unofficial policy at PKC, practised by Council officials, (but not it seems by elected members [<i>see: approval of Binn Farm development, Glenfarg, on 15 July 2015</i>]) that ecological, landscape and visual impact issues are the main issues where wind farm applications are refused in PKC <u>even before the professional consultee responses are received and empirical evidence evaluated</u>. This unofficial policy practice is not supported by any adopted Policy Document or Procedure, or</p>

		indeed by ant written PKC document which purports to be a policy document.
15	13 July 2015 (pm)	Planning Officer Steve Callan had still not received Consultee Responses from SNH or SEPA and therefore e-mailed Appellant (SRL) asking for an extension to be agreed. He wrote, <i>"As it stands I do not share their opinion</i> [he was referring to the opinion of AMEC Foster Wheeler Landscape Consultants, Glasgow] <i>on numerous viewpoints or opinions within the LVIA. A change or alteration to a photomontage is unlikely to turn a recommendation of refusal to approval on this one, I am afraid."</i> Clearly, the Planning Officer's mind was already made up on 13 July 2015, and still before he had received the professional consultation responses from Scottish Natural Heritage (SNH), the critical consultee for Landscape and visual impact matters.
16	15 July 2015	Planning Officer Steve Callan explains that the Binn Farm, Glenfarg Application was <i>"regionally important and economically significant "</i> at 9.2MW, whereas the Parks of Keillour application at 12 MW was not. Simple arithmetic does not support the Planning Officer's explanation. Binn Farm, Glenfarg was therefore put before the Development Management Committee for consideration with an output of 9.2MW (where it was subsequently approved) whereas the Parks of Keillour application at 12MW was refused. The latter was dealt with by two unelected officials under Delegated Powers whereas the former was dealt with by the Development Management Committee. The applications were not dealt with consistently.
17	15 July 2015	4 x Turbine Application at Binn Farm, Glenfarg is approved unanimously by 12 votes to Nil, on the morning of 15 July 2015.
18	15 July 2015	On the afternoon of 15 July 2015, Decision Notice was issued electronically to the Appellant. Planning Application for {arks of Keillour was refused by Planning Officer and Quality Development Manager under Delegated Powers. (see Decision Notice at <b>Production 1</b> and Planning Officer's Delegated Handling Report at <b>Production 2</b> .)
19	4 September 2015	SNH send re-issued Parks of Keillour advice letter to PKC Planning Officer Steve Callan. All LVIA criticisms of (1) the Map of Phase 1 Habitat Survey, (2) eight separate Visualisations, and (3) the Map Scale of the 35km radius ZTV, were unequivocally withdrawn. No objection was lodged, however, SNH still expressed concerns about height of the turbines. SNH omitted to amend the incorrectly referenced DTA 2010 reference to thre height threshold capacity of the Parks of Keillour area.
20	30 September 2015	Appellant lodges, electronically, Notice of Review Statement with Local Review Board at Perth & Kinross Council by way of an Appeal against the refusal of planning permission to Planning Application 15/00445/FLL on 15 July 2015.



**PART 4**

**COMPARATIVE SUMMARY  
OF  
TWO VERY SIMILAR APPLICATIONS  
(PARKS OF KEILLOUR & BINN FARM, GLENFARG)**



# PART 4. COMPARATIVE SUMMARY OF TWO SIMILAR APPLICATIONS (PARKS OF KEILLOUR AND BINN FARM GLENFARG)

In line with the contention by the Appellant that the Parks of Keillour Planning Application was mishandled and unfairly refused by Council Officials, a comparative table of responses from Consultees, to the two very similar Planning Applications ([1] Binn Farm, Glenfarg & [2] Parks of Keillour, Methven) in terms of scale and development, submitted for decision-making the same day (15 July 2015), is detailed below. The Appellant hopes to demonstrate through this comparative study (see each amplifying comment in the right hand column) that the Parks of Keillour Planning Application was dealt with unfairly and inconsistently.

No.	Factor	Binn Farm Glenfarg	Parks of Keillour	Amplifying Comment
1	Number of Consultations by Planning Officer	14	41	Massive disparity. Nearly three times as many consultee responses were made in the POK application compared with the Glenfarg application. Why? Were PKC Council Officials hoping to build refusal case, by asking almost treble the amount of consultees?
2	SEPA	No Objection	No Objection	✓ SAME
3	MOD	No Objection	No Objection	✓ SAME
4	NATS	No Objection	No Objection	✓ SAME
5	TRANSPORT SCOTLAND	No Objection	No Objection	✓ SAME
6	RSPB	No Objection	No Objection	✓ SAME
7	HISTORIC SCOTLAND	No Objection	No Objection	✓ SAME
8	ENVIRONMENTAL HEALTH	No Objection	No Objection	✓ SAME

9	TRANSPORT PLANNING	No Objection	No Objection	✓ SAME
10	FLOODING	No Objection	No Objection	✓ SAME
11	SCOTTISH WATER	Not consulted	No Objection	Inconsistent?
12	FORESTRY COMMISSION	Not consulted	No Objection	Inconsistent?
13	PERTH & KINROSS HERITAGE TRUST	Not consulted	No Objection	Inconsistent?
14	COMMUNITY GREENSPACE	Not consulted	No Objection	Inconsistent?
15	BIODIVERSITY OFFICER	Not consulted	No Objection	Inconsistent?
16	DICK BOWDLER (ACOUSTIC CONSULTANT)	Not consulted	No Objection	Inconsistent?
17	SCOTTISH NATURAL HERITAGE	No Objection but concerns of adverse impacts.	No Objection but concerns of adverse impacts.	SNH retract criticisms of Parks of Keillour LVIA (in 4 Sep 2015 re-issued letter of advice), and re-establish trust in Appellant's LVIA. However, SNH retain concern about height.
18	DESIGN & ACCESS STATEMENT	Not Submitted	Submitted ✓	More information provided for Parks of Keillour than for Binn Farm.
19	Residential Properties within 2km	70 (17 with high impact)	40 (15 with high impact)	Slightly more high impact properties at Glenfarg. Yet Binn Fm Glenfarg was passed.
20	In Special Landscape Area	Yes, the Igneous Hills.	No	Binn Farm, Glenfarg appears to have slightly greater landscape & visual impact on SLAs, yet Binn Fm Glenfarg was passed.
21	RESULT	<b>APPROVED</b> by Development Management Committee	<b>REFUSED</b> by Planning Officer Steve Callan and	Both should have been passed to the Development Management

		unanimously by 12 votes to 0 on <b>15 July 2015</b> , after recommendation for Refusal by Planning Officer and DQM.	DQM under delegated powers on <b>15 July 2015</b> . Refused to put application to Development Management Committee, in spite of close match to Binn Farm Glenfarg Application.	Committee. Distinction between two applications has been inadequately argued by Council Officials.
22	NUMBER OF TURBINES	4	4	✓ SAME
23	RATED OUTPUT CAPACITY	9.2MW	12MW	Parks of Keillour <u>more</u> economically significant in revenue terms.
24	BLADE TIP HEIGHTS	115m	125m	David Tyldesley Associates, 2010, Blade Tip Height recommended for Parks of Keillour is <b>120m for 3-7 turbines.</b>
25	HUB HEIGHT	69m	80m	POK tower 11m taller.
26	BLADE DIAMETER	92m	90m	Glenfarg Blades slightly bigger.
27	Public Comments	143 (77 vs. 66)	134 (117 vs. 17)	Total number of letters similar.
28	Refusal JUSTIFICATION by Planning Officer	"Does not comply to Development Plan" Contrary to Policies ER1A and ER6.	"Does not comply to Development Plan" Contrary to Policies ER1A and ER6.	Planning Officers recommended that neither complied with Development Plan, but Glenfarg was still passed unanimously by DM Committee.
29	Date of actual decision (not issue of Decision Notice):	15 July 2015	15 July 2015	
30	SNH retract criticisms in 4 Sep	Approved. So retractions not	Letter re-issued on 4	



	2015 advice letter, but retain concerns about height. Context of advice has now changed which could now influence the Planning Officer differently.	necessary or relevant.	September 2015. Council Officials must now re-consider their decision, or allow the Local review Board to do it for them.	
--	---	------------------------	---	--

#### CONSULTATIONS WITH INDIVIDUAL COMMUNITY COUNCILS

No.	Binn Glenfarg	Farm	Response	No.	Parks of Keillour	Response
1	Abernethy CC		No Comment	1	Clackmannanshire	No Comment
2	Glenfarg CC		No Comment	2	Blackford CC	No Comment
3	Fife CC		No objection but Cumulative Impact Concern	3	Muthill & Tullibardine CC	No Comment
				4	Dunning CC	No Comment
				5	Dunkeld & Birnam	No Comment
				6	Earn CC	No Comment
				7	Scone CC	No Comment
				8	Burrelton & D CC	No Comment
				9	Luncarty, R & M CC	No Comment
				10	Auchtergaven CC	No Comment
				11	Spittalfield & D CC	No Comment
				12	Coupar Angus, Ardler & Bendochy	No Comment
				13	Blairgowrie & R CC	No Comment
				14	Alyth CC	No Comment
				15	Meigle CC	No Comment
				16	Stirling CC	No Comment
				17	Crieff CC	A Concern
				18	Auchterarder CC	Objection
				19	East Strathearn CC	Objection
				20	Methven CC	Objection
				21	Stanley & Kinclaven CC	Objection

# **PART 5**

## **LANDSCAPE AND VISUAL IMPACTS**



# PART 5. LANDSCAPE AND VISUAL IMPACTS

## Introduction

Landscape and Visual Impact Assessment (LVIA) permeates all 5 reasons for refusal crafted by the Council Officials at PKC and warrants having a special part of the Notice of Review Statement devoted to it. Part 5 below provides the context and detail of relevant LVIA factors whereas Part 6, which follows, sets out a rebuttal for each reason for refusal, sequentially, in planning terms, and then finishes with criticisms of general handling of this planning application by the Council Officials.

## The value of carrying out detailed work on the ground

In making their assessment the Council Officials failed to account for the amount of screening on the ground. Lack of a detailed assessment in the field meant that the Council Officials did not appreciate that the landscape character of the Parks of Keillour area contained a significantly large amount of inherent screening. This theoretical, desk-top approach by the Council Officials, lacked the necessary depth required and caused them to make unsubstantiated judgements and express subjective opinion.

## **LVIA Characteristic 1: Low Landscape Sensitivity & Capacity for Wind Turbines**

The proposed Parks of Keillour Wind Turbine Cluster is located within the Lowland Hills: Keillour Forest LCA, an area of lowland Strathearn which is not designated for landscape reasons. The David Tyldesley & Associates Study ('DTA 2010') advised that this area (categorised as "*Keillour Ridge/Methven Hills 6[v]*") had capacity for wind farm development and the DTA 2010 report advised that the area is of "*low sensitivity*" (DTA 2010 Page 16, Table & Page 32 Table) and may be suitable for "*a cluster of 3 to 7 turbines up to 120m (about 6-14MW)*" (DTA 2010 Page 16, Page 5). Please see **Production 6** to consult these extracts. The Parks of Keillour clearly meets the definition of "*cluster*" and not the definition of a "*small wind farm*" which is a development of 8-12 wind turbines, and was the definition incorrectly referenced by the Council Officials in the Handling Report. DTA 2010 considers that the area has capacity to accommodate an even larger category, which is a 'small wind farm' development of 8-12 wind turbines, so it should be able to accommodate a numerically smaller "*cluster*" of 4 wind turbines without difficulty. The Appellant respectfully requests that the LRB corrects this reference during the course of their review proceedings and allows the correction to underpin their final decision.

## **LVIA Characteristic 2: Outwith the buffers of the Highland Boundary Fault & Simple Design**

The proposed Development is outwith the buffers suggested in the DTA 2010 report around the Highland Boundary Fault and iconic viewpoints, and is some distance away from the main principal tourist and amenity routes, including the A822 National Tourist Route. In addition, DTA 2010 advises that new development should *“not add significantly to cumulative effects, including sequential cumulative effects on the A822”* and should *“Demonstrate an acceptable degree of separation between the proposal and other installed and permitted wind farms.”* The proposed Parks of Keillour Wind Turbine Cluster is separated by a degree of separation of over 15km, in all directions, from any other existing or consented wind farm developments (see *Spatial Framework Table at page 42 of the Non-Technical Summary of the Appellant’s EIA, Volume 1 [Production 3]*). Griffin Wind Power Development is 18km north, Lochelbank Wind Power Development is 19km south east and Greenknowes Wind Power Development is 20km south. Taking account of the consultation advice, the proposed development considers a maximum turbine height of up to 125m to be of a similar height range to other existing and consented wind farms within the 35km Study Area: operational Griffin, 18km north has some 124m high turbines and consented North Calliachar, 21km north-west, plans 127m high turbines. Moreover, the proposed development is broadly comparable to the 120m height recommended in DTA 2010: the human eye struggles hard to differentiate between 120 metres high and 125 metres high because of a lack of visual reference points on which it can rely, so it is fair to use the assessment of ‘broadly comparable’. In addition, the wind farm design has taken account of the SNH *‘Guidance on Siting and Designing Windfarms’* aiming to achieve a simple, rational, and cohesive design that, to a reasonable degree, avoids overlapping turbines and gaps within the visual composition.

## **LVIA Characteristic 3: No impact on National Parks or National Scenic Areas**

In terms of landscape effects the proposed Development would only significantly affect part of the ‘host’ landscape character (**Lowland Hills: Keillour Forest LCA**) and the visual character of the views from the northern part of Glenalmond, along the B8063. However, the site is not designated and there are no landscape designations within 10km of the proposed Development. There would be no significant effects on designated landscapes including *Loch Lomond* and the *Trossachs* National Park or National Scenic Areas and no views of the proposed development from any *Wild Land Areas*.

## **LVIA Characteristic 4: Significant Visual Effects limited to 4km distance**

Viewpoint analysis indicates that significant visual effects would be limited to approximately 4km distance from the proposed turbines. Significant visual effects would affect the views from Harrietfield, along the B8063 and the northern edge of Balgowan, 34 individual residential properties, 2 Core Paths and a limited part of the A85. There would be no significant effects on the A822 National Tourist Route or other recreational and tourist / visitor attractions within the area.



### **LVIA Characteristic 5: Cumulative Effects are Limited and Not Significant**

Cumulative effects would be limited and **not significant** due to the degree of separation between this proposal and other wind farm developments within the 35km wide Study Area. There are no other known operational or consented **wind farms** within 18km of the Parks of Keillour site (Griffin is the nearest at 18km to the north). Moreover, there are no known **wind farm** planning applications within 15km and no existing, consented or current planning applications for **single turbines** within 18km, with the exception of micro-generation turbines (too small to be of any significance). The proposed Development, either alone or in combination with other wind farm development, would **not** change this overall description or lead to the creation of a 'wind farm landscape' or an area 'surrounded' by wind farm development.

### **LVIA Characteristic 6: Impact on Special Landscape Areas Not Significant**

The development site does not lie within any of the newly created (17 June 2015) Special Landscape Areas (SLAs). The Appellant's latest professional assessment is that there are **no significant impacts** on any of the newly created neighbouring SLAs.

### **LVIA Contextual Conclusion: Application is Broadly Consistent with best Guidance**

PKC have still not produced their spatial framework for onshore wind development, and in the absence of this document it will be necessary for the time being for Council Officials to make best use of the best planning guidance document they currently have available in the PKC Planning Policy Library: this is the DTA 2010 Study. DTA 2010 was a '**Landscape Study to inform Planning of Wind Energy**' commissioned by Perth & Kinross Council to provide guidance. Until the PKC Spatial Framework is actually produced, DTA 2010 is the best Planning Guidance Document available to the Planning Authority. The proposed Parks of Keillour Wind Turbine Cluster is regarded by the Appellant as broadly consistent with the guidance set out in the DTA 2010 report.

## **LVIA DETAILED CONTENTIONS**

### **LVIA Detailed Contention 1: Inadvertent Misrepresentation of Landscape Capacity by Council Officials**

The assessment of the impact on the landscape, by Council Officials, contained significant errors and omissions. Most serious of these was the inadvertent misrepresentation of a critical clause in the seminal planning document already discussed: the ***Landscape Study to Inform Planning for Wind Energy produced by David Tyldesley & Associates (DTA) of Edinburgh in November 2010***, commissioned specifically by Perth & Kinross Council "*to assist Perth & Kinross Council in the preparation of policy guidance relating to planning for wind energy developments.*" The DTA 2010 Report was high quality specialist advice, directly relevant to the proposed development at Parks of Keillour. However, it was incorrectly referenced by the two Council Officials (dealing with the matter under delegated powers). It was

only given limited weight, which was a significant error of judgement. DTA 2010 is a material consideration.

### Typology Definitions of 'Cluster' and 'Small Wind Farm' confused by Council Officials

So the Appellant contends that Council Officials inadvertently misrepresented PKC Landscape Policy Guidance for Wind Energy Development in the 'Report of Handling' (Page 17 paragraph 1) by omitting paragraph 2.3 (e) of the DTA Report 2010 and wrongly inserting paragraph 2.2(a) which misrepresented and underplayed the capacity of the local landscape to support the Parks of Keillour development. This was a fundamental error. Paragraph 2.2(a) quite clearly specified it's applicability to a development containing between twice and three times as many wind turbines as the number proposed by the Parks of Keillour Development, and a rated output capacity of between 20 and 25MW which did not correspond with the rated output capacity of 12 MW for Parks of Keillour. This mis-referencing of important Policy Documents needs to be put right by the Local Review Board. The seriousness of this mistake is exemplified in **Table 1** below.

## EXTRACTS FROM DTA 2010

**Table 1.** Extracts from the DTA (2010) Landscape Study are shown in the table below. In the adjacent right hand column are the Appellant's Responses. The critical clause omitted by the Council Officials is highlighted in yellow. The misleading clause inserted by the Council Officials is highlighted in red.

Relevant Landscape Extracts from the Landscape Study to Inform Planning for Wind Energy produced by David Tyldesley & Associates (DTA) of Edinburgh in November 2010	Appellant's Response
<p>Italicised Text, in the greyed out box below, is taken directly from the David Tyldesley &amp; Associates Study (2010) Page 5:</p> <p><b>"WIND ENERGY TYPOLOGIES</b></p> <p><i>2.1 In this report all references to the height of wind turbines is expressed consistently as the height to blade tip when the blade is in the fully vertical position above the tower.</i></p> <p><i>2.2 The following wind energy typologies have been used for the spatial framework analysis of developments in excess of 20MW:</i></p>	<p><b>CONTENTION:</b>  <u><b>INCORRECT ANSWER</b></u>  <u><b>GIVEN BY COUNCIL</b></u>  <u><b>OFFICIALS</b></u></p> <p><b>2.2 (a),</b> which is</p>

*a) A small wind farm of 8 to 12 turbines up to approximately 100m high (about 20 – 25MW)*

*b) A medium wind farm of 13 to 20 turbines up to approximately 120m high (about 25 – 50MW)*

*c) A large wind farm of 20 and up to 100 turbines up to 140m high (over 50MW)*

*2.3 The following typologies were used for providing written guidance for development management of wind energy developments below 20MW:*

*d) A cluster of smaller turbines of 3 - 5 turbines up to 75m (about 5 - 9MW)*

*e) A cluster of 3 to 7 turbines up to 120m (about 6 - 14MW)"*

highlighted in red, was erroneously inserted, by Council Officials, into page 17, paragraph one, of the 'Report of Handling', signed by the Planning Officer. Why erroneous? Because the Parks of Keillour Development was not in excess of 20 MW, nor did it propose 8-12 turbines. It proposed 4 turbines which totalled 12 MW.

#### **CORRECT ANSWER**

What should have been quoted was paragraph 2.3 (e) highlighted in yellow, which gave a greater height allowance, for a smaller number of turbines, from which the Binn Farm Glenfarg Application clearly benefitted (because Turbines were approved at 115m high).

Parks of Keillour wind turbines were up to 125m to blade tip, 4 in number and 12 MW in rated output capacity. Appellant was not asked to reduce height by 5 metres or even 10 metres to have been consistent with the Binn Farm, Glenfarg's 4 x Wind Turbine Development. The Application was simply refused, in spite of two pre-application

DTA Page 16 - Table 4 – **Low Sensitivity** for this LCA

DTA Page 32 – Table 7 - identification of a Small sized development as **suitable**

DTA Page 40 – Guidance for Development management:

**“Zone E: Lowland Hills & Strathearn (Page 40)**

7.20 A landscape of medium or low sensitivity where visual impact with the A822 and cumulative effect with Braes of Doune (a large wind farm), Burnfoot Hill (a medium wind farm) and Standingfauld (a small wind farm if consented) are the key considerations in the west of the zone. In the east of the zone, cumulative effect with Lochelbank (a small wind farm) and Greenknowes (a medium wind farm) lying within zone F are key considerations. The operational and consented wind farms are a significant constraint in terms of fitting new wind energy developments into this area.

7.21 Any new wind energy development should:

- a) avoid the Igneous Hills (the Ochil Hills, see zone F below);
- b) avoid the Pow Water Valley landscape unit 10(ii) due to its intimate and small scale;
- c) be a small wind farm or a cluster or a cluster of smaller turbines within the Knaik Hills landscape unit 6(i), or the Lowland Hills or Broad Valley Lowlands landscape character types which can demonstrate that it would not

meetings (Nov and Dec 2014) during which the Council had been asked specifically to comment on height. It appears that Council Officials had already made their minds up to refuse this application regardless of the evidence presented.

Parks of Keillour wind turbines were in a Low Sensitivity Landscape Character Area.

Parks of Keillour wind turbines were suitable.

Braes O’ Doune is 28km to the South West. Burnfoot Hill is 20km to the South. Lochelbank is 19km to the South East and Greenknowes is 20km to the South. Spatial separation is beyond 15km and more than sufficient.

(a) Parks of Keillour wind turbines met this requirement

(b) Parks of Keillour wind turbines met this requirement

(c) Parks of Keillour wind turbines met this requirement



*add significantly to cumulative effects, including sequential cumulative effects on the A822;*

*d) limit visual impact from the A822; this should include avoiding the creation of successive cumulative visual impacts resulting from wind turbines on both sides of the road, thus if Standingfauld is approved to the east of the A822 a new wind farm to the west should be avoided;*

*e) demonstrate an acceptable degree of separation between the proposal and the other installed and permitted wind farms.”*

(d) Parks of Keillour wind turbines met this requirement with the A822.

Standingfauld was refused.

(e) Parks of Keillour wind turbines met this requirement.

Closest installed wind farm was Griffin, 18km to the north, with a section of turbines measuring 124 metres to blade tip and completely screened from view. Closest consented wind farm was the Burnfoot Hill Extension 24km to the south.

**DTA 2010.** No other planning document in the Perth & Kinross library gives as much helpful detailed information about onshore wind development or informs the decision-making process on landscape and visual impact of onshore wind power in Perth & Kinross, as well as this, seminal DTA 2010 Report. Yet, perversely, the Planning Officer sums up its contribution with a strange contradiction. In a baffling last paragraph on page 8 of the *Report of Handling*, the Planning Officer writes:

*“Although this document will form part of the strategic planning framework and [although] the Report should not be used in isolation or to test proposed wind farm developments [well, what use is it if it doesn’t test proposed wind farms?] there are elements of the study which are useful in the consideration of the application, but [here comes the contradiction] the weighting that can be attached to this technical report is limited.”* (Report of Handling by Planning Officer, Steve Callan, July 2015 page 8). This is a strangely dismissive comment from the Planning Officer when you consider that the DTA 2010 Report was a high quality specialist report, commissioned directly by Perth & Kinross Council (PKC), part of the strategic planning framework (and therefore a material consideration) and the most relevant document for matters of scale and height in the PKC Policy collection. The DTA 2010 Report was directly relevant to the Parks of Keillour application, but was afforded only limited weight, in spite of critical role in the process of assessing scale.

The bias of the Planning Officer, against wind turbines, leaps out from the text on page 8 of his Report of Handling. It is yet another example of subjective assessment on the part of the Planning Officer who is not a qualified Landscape Architect, but dismisses the work of Qualified Landscape Architects David Tyldesley & Associates as effectively limited in its contribution. He proceeds also to dismiss the work of professionally qualified Landscape Architects at AMEC FW and also the professionally qualified advice from SNH about mitigation and design. The Appellant respectfully requests that this judgement is re-examined by the Local Review Board, and that proper weight is given to DTA 2010 as an important material consideration.

### **LVIA Detailed Contention 2: Layout and Design wrongly criticised by Council Officials**

The two Council Officials, criticised the layout and design of the Parks of Keillour Wind turbine Cluster in Reasons for Refusal 1, 2 and 3. However, the straight line, evenly spaced, cluster design received the following supportive comment from SNH:

*“the horizontal extent and the layout of the development would likely be in keeping with the surrounding landscape character and scale of the landscape.”* (SNH Letter of advice dated 13 July 2015 and repeated in the corrected letter of 4 September 2015))

So it is difficult to see from where the two Council Officials are drawing their support, when they use a criticism of the layout in the first three reasons for refusal (i.e. Reasons for Refusal 1, 2 & 3). Why? Because the judgement of the Council Officials is directly contradicted by professionally qualified specialist advisers SNH. The topography and shape of the ridge and shoulder at Parks of Keillour lend themselves well to a straight line of evenly spaced turbines. The straight line design is considered to offer a simple, clear and balanced visual effect in line with the characteristics of the surrounding landscape. Straight line cluster designs aim at minimising bunching and overlapping effects from most viewing directions. This is considered good practice and conforms with the SNH Guidance on ‘*Siting and Designing Windfarms in the Landscape*’. Furthermore, there now a large number of examples of wind clusters which follow the pattern of a straight line. The views expressed in all 3 Reasons for Refusal are predominantly subjective and based on the personal judgements of Council Officials. The Appellant respectfully requests that the questions of layout and design be re-examined by the Local Review Board, professionally qualified assessors SNH described them as being *“in keeping with the surrounding landscape character and scale of the landscape.”*

### **LVIA Detailed Contention 3: Significant visual effects would be limited to 4km from the Development Site.**

Viewpoint analysis indicated that significant visual effects would be limited to 4km distance from the proposed turbines. Significant visual effects would affect views from Harrietfield, along the B8063, a small number of individual residential

properties, the northern edge of Balgowan, two Core Paths and a limited part of the A85. However, there would be no significant effects on the A822 National Tourist Route or other recreational and tourist/visitor attractions within the area.

As set out in the ES (EIA Volume 2), considering the visual effects on the Highland Boundary Fault (“HBF”), in overall terms, it is considered that the level of effect on the HBF would be Moderate to Slight, and that the overall integrity of this landmark feature would not be significantly affected.

The Zones of Theoretical Visibility (“ZTV”) indicate that there would be only limited visibility from any areas of nationally designated landscapes which include *the Loch Lomond* and the *Trossachs* National Park and National Scenic Areas (“NSA”). No significant visual effects on any of the recreational or tourist destinations have been identified.

The magnitude of change affecting each of the main hill-walking summits, within the 35km LVIA Study Area, is assessed as negligible and the level of effect would be Slight and **not significant** in each case.

#### **LVIA Detailed Contention 4: No evidence that Development would create a wind farm landscape.**

The Council Officials provided no detailed explanation as to why 4 additional turbines (over and above the existing baseline) exceeded the capacity of the landscape or would create a wind farm landscape. The empirical evidence before the Local Review Board does not support such assertions by the two Council Officials.

Where significant effects occur they would be localised. Overall the main significant landscape impacts are not only localised but would be appreciated by a relatively limited number of people many of whom (within 2km) support the proposed development. In Landscape Policy Guidance terms the Parks of Keillour planning application for 4 wind turbines (which was refused by Council Officials on 15 July 2015) met the requirements and criteria of the DTA 2010 Policy Guidance Document better than the Binn Farm Glenfarg planning application (for 4 similarly large turbines 29km to the South-East). However, Binn Farm, Glenfarg proposal was passed unanimously by the PKC Development Management Committee on 15 July 2015, whereas the Parks of Keillour proposal was refused by Council Officials using delegated powers.

#### **LVIA Detailed Contention 5: Impact on Highland Boundary fault overstated.**

At page 13 of his Report of Handling the Planning Officer recorded that :

*“The David Tyldesley & Associates Landscape Study (2010) to inform planning on wind energy, identifies that the proposal lies just outwith the sensitive visual*

*compartment of the Highland Boundary Fault and it recognises that this landscape is of low sensitivity and has potential to accommodate some small scale wind farm proposals.” (DTA LS 2010 commissioned by Perth & Kinross Council).*

However, the Council Officials and SNH elevate the status of the Highland Boundary Fault to dizzy heights of importance which are not in any way underpinned by Scottish Planning Policy. The weight attached to the Highland Boundary Fault is far too great. The Highland Boundary Fault (HBF) is not a landscape character area; it is not a nationally designated landscape; it is not a locally designated Special Landscape Area, despite the recent review and decision by PKC to designate new local landscape designations (17 June 2015). It is a landscape feature. The two key points about the HBF landscape feature are as follows:

- The HBF is not designated in any way.
- The Parks of Keillour development is outwith the 5km HBF buffer referred to in the DTA 2010, Report for PKC.

Thus, the detailed LVIA assessment carried out by professionally qualified consultants, AMEC FW of Glasgow, confirmed that the impact of the development proposal on the HBF would not be significant.

## **PART 6**

# **FULL APPRAISAL OF COUNCIL OFFICIALS' REASONS FOR REFUSAL**





# PART 6. FULL APPRAISIAL OF THE COUNCIL'S REASONS FOR REFUSAL

## INTRODUCTION

### **Planning Contention 1: Policies were wrongly cited and some were given too much weight**

In refusing the planning application on 15 July 2015 the Council Officials attached considerable and significant weight to selected extracts from the following Policies to support their five Reasons for refusal:

- TAYplan Strategic Development Plan (June 2014) Policy 6. (Wrongly cited)
- PKC Local Development Plan (2014) Policy ER 1A(a) and (h). ( Given too much weight)
- PKC Local Development Plan (2014) Policy ER 6 (a), (b), (c ), (f). (Given too much weight)
- PKC Local Development Plan (2014) Policy PM1A (Wrongly cited)
- PKC Supplementary Guidance on Landscape adopted (Post submission) 15 June 2015. (Given too much weight)

### **Planning Contention 2: Policies not given sufficient Weight in overall balancing analysis**

On the other side of the balancing scales, the Council Officials attached limited, little or no weight to the following:

- European Energy Policy (2008) 20-20-20 targets.
- European 2030 Energy and Climate Change Policy (2014)
- United Kingdom Energy Policy
- United Kingdom Energy Strategy (2009)
- United Kingdom Renewable Energy Roadmap (2011)
- United Kingdom Renewable Energy Roadmap Update (2013)
- Scottish Government Policy & Renewable Energy Generation Targets
- National Planning Framework 3 (2014)
- Scottish Planning Policy (2014)
- Benefits of the Proposed Development.
- Supportive elements of TAYplan Strategic Development Plan (June 2014) Policy 6
- Supportive elements of PKC Local Development Plan (2014) Policy ER 1A(a) and (h).
- Supportive elements of PKC Local Development Plan (2014) Policy ER 6 (a), (b), (c ), (f).
- Supportive elements of PKC Local Development Plan (2014) Policy PM1A

- Supportive elements of PKC Supplementary Guidance on Landscape adopted (post submission) 15 June 2015

## REBUTTAL OF REASON FOR REFUSAL 1

The Appellant contends that the assessment by the Council Officials (*that the location, dominance, scale and layout of the proposed development would result in unacceptable adverse landscape impacts having regard to landscape character and setting*), is flawed in evidential terms, over-stated in view of the now-retracted assessments by SNH on 4 September 2015 and based on unsubstantiated judgment and subjective opinion, in assessment terms. The overall assessment was not underpinned by empirical evidence or a clear demonstration of planning harm.

### SUMMARY OF COUNCIL OFFICIALS' PLANNING POLICY ARGUMENT

The Council Officials supported their *Reason for Refusal 1* (centred on adverse Landscape Impacts) by referring to four Policy Extracts from the Local Development Plan as their four pillars of argument:

1. TAYplan Policy 6;
2. Development Plan Policy ER1A (a);
3. Development Plan Policy ER6 (a);
4. Development Plan Policy ER6 (b).

### PILLAR 1 OF COUNCIL'S ARGUMENT

#### Policy Extract 1: Contrary to TAY plan Policy 6

The TAYplan forms part of the Local Development Plan and is a strategic planning document. The Plan sets out the policies for where development should take place over the next 20 years. The TAYplan further promotes "*sustainable economic growth and a better quality of life through a stronger and more resilient economy, better quality places, reduced resource consumption and better resilience to climate change and peak oil*" (p.3).

The Plan's 'Vision' for the area is that "*By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs*" (p.6).

TAYPlan Policy 6, therefore, translated into the following. In relation to renewable energy proposals, the general objective of TAYPlan Policy 6 is that provision should be made for renewable energy proposals in an environmentally acceptable manner.

Reading each TAYPlan Policy 6 requirement, it soon becomes clear that the Parks of Keillour development does not contravene the Policy, but is actually consistent with the overall thrust of TAYplan Policy 6. **Sustainable growth** and **better resilience to climate change** are key pillars of the TAY Plan policy. The Policy understands that a rise in global temperature by 4 or 5 degrees celsius would have serious impacts on the Perth & Kinross landscape and we have the evidence right now that onshore wind power is the cheapest renewable energy generator available to us to combat climate change. Scotland needs to develop more onshore wind power to reduce carbon emissions and combat climate change. Furthermore, the excellent wind conditions in Scotland make the onshore wind the obvious choice from a range of renewables, to supplement the imminent loss of 18% of Scotland's electrical energy in March 2016. This serious loss in generating capacity has been brought about by the recently announced closure of the Longannet Coal fired power station in Alloa, Fife. There is simply no commercially effective renewable source, other than wind power, currently available, to fill the gap that will be created by the 18% loss in Scottish Generating Power in March 2016. The PKC Planning authority, like all others, has a significant role to play in supporting Scotland's energy needs. The proposed development would be entirely consistent with the policy objective of seeking to create resilience against the effects of climate change. The TAY Plan policy recognises the need to combat climate change but does not include detailed guidance that is directly relevant for the assessment of an individual wind turbine cluster proposal, so the TAYPlan Policy 6 was the wrong choice of policy, by Council Officials, to support a refusal point on landscape impacts.

**Planning Contention 1.1: TAY plan Policy 6 not directly relevant to evaluating detail of landscape impacts.**

The determining issues that are in dispute between the Council Officials and the Appellant relate to the single criterion of TAYPlan Policy 6 which refers, *inter alia*, to 'landscape character.'

To demonstrate the assertion that TAY Plan Policy 6 was the wrong policy to support PKC's first Reason for Refusal stated, each point of TAY Plan Policy 6 needs to be re-examined to discover the extent to which the proposed development either contravenes or supports the planning policy. Details of TAYPlan Policy 6 are as follows:

**Detailed Breakdown of TAYPlan Policy 6**

**Policy Criterion 1: Land take requirements and safety exclusion zones:** the Environmental Statement (EIA Volume 2) had assessed the effect that the development will have on the land take and it is considered that the predicted effects are localised and not significant.✓

**Policy Criterion 2:** The second criterion (on waste resources) of Policy 6 was not relevant.✓

**Policy Criterion 3: Proximity to resources:** The Parks of Keillour development was assessed through the Environmental Impact Assessment (EIA) process to establish the potential effects on a variety of resources. The site was assessed for its suitability for wind turbine development. Average wind speed data were collected (via SODAR) and deemed to exceed the pre-determined level anticipated and the site was therefore deemed suitable for development. The development was suitably located to allow connection to a nearby grid connection.✓

**Policy Criterion 4: Effects of construction and operation on air quality, emissions, noise, odour, surface and ground water pollution, drainage, waste disposal, radar installations and flight paths, and, of nuisance impacts on off-site properties.** The ES (EIA Volume 2) assessed the effect the development would have on each of these topics in detail. No objections from statutory consultees were raised in relation to these effects. No significant effects were therefore predicted in relation to these topic areas. NB: The effects of construction and operation on air quality, emissions, odour, waste disposal and nuisance impacts on off-site properties were not strictly relevant to the proposed development. ✓

**Policy Criterion 5: Sensitivity of Landscapes, the water environment, biodiversity, geo-diversity, habitats, tourism, recreational access and listed/scheduled buildings and structures.** The EIA process was informed by detailed assessments and field work, from professional independent consultants, AMEC Foster Wheeler, of the potential effects the development might have on each of these topic areas. Parks of Keillour was characterised by low landscape sensitivity and did not lie within a nationally designated landscape area or in a locally designated Special Landscape Area (SLA). Table 1 to Scottish Planning Policy (2014) identified that the LCA for Parks of Keillour fell into a **Group 3** classification which is *“an area with potential for wind farm development where wind farms are likely to be acceptable subject to detailed consideration against identified policy criteria”*. The reasons cited by the two Council Officials for this Reason for Refusal, therefore, appear inconsistent with Scottish Planning Policy (2014). Furthermore, the Council reasoning was almost entirely based on theoretical information (i.e. Zones of Theoretical Visibility [ZTVs]) which are well known by professional Landscape Architects to be the worst case, theoretical, desk-top, starting point to a subsequent systematic and detailed assessment of the overall impact. However, such an assessment was not properly carried out by Council Officials who never advanced beyond the starting point ZTVs. The assessment was predominantly subjective and framed by personal judgement.✓

Although 4 out of the 21 Community Councils consulted, objected to the proposal, there were no objections from statutory consultees. SNH voiced concerns about scale (height of turbines) but did not formally object to the proposal.

**SNH issue new advice letter to PKC and retract a range of criticisms.** However, the Local Review Board should be aware that (post refusal) SNH informed the Appellant in writing that the SNH assessment had been carried out by the SNH Case Officer (Denise Reed) and colleagues, **without possession of a comprehensive hard copy of the EIA (a box of 7 Volumes) which was essential for their assessment of the Parks**

**of Keillour proposal.** These documents should have been sent to SNH by the PKC Planning Officer. On the one hand, and according to SNH, for some unknown reason, the paper documents never reached the SNH team at Battleby, Perth in time for them to carry out a full assessment by 'Decision-Time on 13 July 2015'. On the other hand, the Planning Officer, Steve Callan, asserts that the EIA package was personally driven to SNH, Battleby, Perth and handed over to the SNH Receptionist (for the attention of Peter McPhail, SNH), on Monday 25 May 2015. However, the SNH Case Officer, Denise Reed, contends that she never had the materials passed on to her until after her 13 July 2015 assessment had already been made. On discovering this fundamental error, SNH retrospectively carried out a review of their 13 July 2015 advice letter to the Planning Officer at PKC, and substantially changed or retracted about a third of the content, in a re-issued advice letter dated 4 September 2015 (post refusal). It was absolutely critical that SNH were able to assess the full paper versions (maps and visualisations) as well as the electronic versions of the text and graphics of the EIA. Wherever the blame lies, it is most unfortunate that the Appellant has been the only loser in the whole process. The Local Review Board are respectfully requested to put this matter right.

**SNH retain concern about the scale of turbines.** SNH still, nevertheless, expressed reservations about the scale of turbines in the 4 September 2015 re-issued advice letter, but much in the same way that they had expressed serious reservations about the scale of the Binn Farm, Glenfarg Proposal whose scale impact was arguably slightly more adverse than Parks of Keillour because it lay within the designated Special Landscape Area (SLA) of the Igneous Hills. In spite of the recommendation for refusal, made by the Council Officials, the Binn Farm Wind Turbine Cluster (4 Turbines of similar size) **was given unanimous planning approval by the PKC Development Management Committee on 15 July 2015.** Further topic areas covered are considered under the relevant policy headings below.✓

**Policy Criterion 6: Impacts of associated new grid connections and distribution or access infrastructure:** An electrical transformer site (30m by 30m) would be required adjacent to the northern most 132kV pylon within the application site boundary. This would provide a direct grid connection point within the site boundary, avoiding the need for a lengthy grid connection. Appropriate landscape design and screen planting would be implemented to reduce the potential visibility of the electrical transformer from the minor road along the south western boundary. No objections from statutory consultees were raised in relation to these effects. ✓

**Policy Criterion 7: Cumulative impacts of the scale and massing of multiple developments, including existing infrastructure:** A detailed assessment was carried out and documented in the ES (EIA Volume 2). Neither SNH nor the Council Officials carried out their own detailed assessments of cumulative impacts and both erred badly by, once more, relying heavily on theoretical desk-top data which failed to take into account the real-life screening on the ground. Screening arose from undulating topography, built form, trees and vegetation. Inter-visibility with other developments over 15km away turned out (after detailed assessment on the ground) to be slight to none and therefore not significant. In the opinion of the landscape



professionals in the field, cumulative impact was not an issue. There were no other existing or consented, wind farm developments within 15km of the application site and no existing, consented or current planning applications for single turbines within 20 km, with the exception of a single consented micro-generation turbine (33metres in height and not visible) at Tullybelton House, 9km to the northeast. ✓

**Policy Criterion 8: Impacts upon neighbouring planning authorities (both within and outwith TAYplan):** There would be no impacts upon neighbouring planning authorities within, or outwith, TAYplan. ✓

**Policy Criterion 9: Consistency with the National Planning Framework (NPF3) and its Action Programme:** The development was assessed favourably against the National Planning Framework in Chapter 4 of the Planning Statement at Volume 5 to the ES, which members of the Local Review Board are urged to read. The application is entirely consistent with NPF3. ✓

### **Overall Conclusion about the effectiveness of TAY Plan 6**

**Conclusion:** In contrast to the view taken by the PKC Officials, the Appellant contends that the proposed development was substantially in accordance with each of the criteria of TAYplan Policy 6 and it is difficult to see how the Council Officials could have justified drawing the opposite conclusion .

Being a tall structure is not in itself environmentally unacceptable and being visible is not in itself environmentally unacceptable. Factors other than subjective assessment and personal judgements need to be established to demonstrate material planning harm which the Council Officials failed to do in the Handling Report. The Council Officials did not robustly establish planning harm, and they chose to cite TAY plan 6 to support their argument, when it was not directly relevant to the detailed assessment of an individual wind farm proposal. Pillar 1 of the Council Officials argument falls away here.

## **PILLAR 2 OF COUNCIL'S ARGUMENT**

### **Policy Extract 2: Perth & Kinross Local Development Plan Policy ER1A(a)**

The determining issues that are in dispute between the Council Officials and the Appellant relate also to the criterion of Policy ER1A(a) which refers to the impact on landscape character.

In contrast to TAYPlan 6 the Local Development Plan did have policies which applied to specific types of development (including wind turbine proposals) and also general policies that would apply to any development. Inevitably there is a degree of overlap and duplication when a criterion associated with a policy for a particular type of development raises an issue that is also addressed by a general policy. Policy ER 1 relates to renewable energy generation and is in two parts. The first part is Policy ER1A (which is the policy the Council Officials used to support their first reason for refusal) addresses new renewable energy proposals: Policy ER 1B relates to

extensions of existing renewable energy facilities, but, is not applicable here. In accordance with Scottish Government Planning Policy and the planning objectives of TAY Plan, Policy ER1A supports renewable energy proposals subject to considering a whole range of factors including biodiversity, landscape character, visual integrity, wildness qualities, transport implications and the impact upon tourism. The criteria listed in the general policies can also be helpful.

***Policy ER1A: New proposals***

*Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported subject to the following factors being taken into account:*

*The individual or cumulative effects on biodiversity, landscape character, visual integrity, the historic environment, cultural heritage, tranquil qualities, wildness qualities, water resources, aviation, telecommunications and the residential amenity of the surrounding area.*

**Conclusion about the overall effectiveness LDP Policy ER1A (a)**

The Appellant contends that too much weight was given by Council Officials to one small aspect of this policy, landscape character, in ER1A(a), when ten other different aspects of this policy were judged environmentally acceptable and had not been objected to by the professionally qualified, specialist, statutory consultees who had considered them.

The Parks of Keillour site is outwith the suggested buffers around the Highland Boundary Fault (HBF).

The impacts of this one aspect out of eleven are not of sufficient magnitude to undermine the planning objectives of Policy ER1A (a). No attempt was made by the Council Officials to engage with the Appellant to make the landscape character impacts acceptable: for example, by reducing the height of the turbines to a height acceptable to PKC. The Appellant was entitled to be given the opportunity to mitigate the impacts identified by the PKC Council Officials, but was not given that opportunity.

Little attempt, by Council Officials, was made to weigh the importance of other aspects LDP Policy ER1A (a) and no attempt was made to weigh the importance of Scottish Planning Policy in relation to LDP Policy ER1A (a).

It is obvious from reading the Report of Special Handling that not everyone in PKC agreed with the previous decisions taken in relation to the now operational Calliachar (+ extension) and Griffin wind farms and indeed that the PKC Planning Officials did not agree with the Binn Farm, Glenfarg development, even though it was approved unanimously by PKC Development Management Committee on 15 July 2015. Nevertheless, the fact remains that these developments have been considered environmentally acceptable overall by the relevant decision-makers. They are now part of the established baseline in Perth & Kinross for any landscape character

assessment. Therefore, the relevant judgement for the Local Review Board to make is to assess the material planning harm created by an additional 4 wind turbines at Parks of Keillour over and above the already established baseline. Only by doing so can the Local Review Board be said to have given the proposal a fair and consistent hearing. In the event of this happening the Council Officials' second pillar of argument must fall away.

## PILLAR 3 OF COUNCIL'S ARGUMENT

### Policy Extract 3: Perth & Kinross Local Development Plan Policy ER6(a) & ER6(b)

LDP Policy ER6 'Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes' states:-

*"Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscapes. Accordingly, development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross. They will need to demonstrate that either in the case of individual developments, or when cumulatively considered alongside other existing or proposed developments:*

*(a) they do not erode local distinctiveness, diversity and quality of Perth and Kinross's landscape character areas, the historic and cultural dimension of the area's landscapes, visual and scenic qualities of the landscape, or the quality of landscape experience;*

*(b) they safeguard views, viewpoints and landmarks from development that would detract from their visual integrity, identity or scenic quality;*

**Conclusion:** The Appellant has identified that the proposed development would have some substantial effects on certain Landscape Character Areas (LCAs), which is unavoidable for a wind turbine development. It is important, however, for the Local review Board to note three key points in conclusion:

- (1) The application site is not designated for landscape reasons;
- (2) The application site is of Low sensitivity;
- (3) The application site has been recognised in the DTA 2010 Report as having some capacity for wind turbine development (3-7 Turbines up to 120m in height for a less than 20MW development.)

Therefore, although the proposed development would have some effect on the landscape of the area, such effects are not considered to erode the local distinctiveness, diversity and quality of Perth and Kinross's LCAs.

## REBUTTAL OF REASON FOR REFUSAL 2

**Planning Contention 2.1.** The Appellant contends that the assessment by the Council Officials that the location, dominance, scale and layout of the proposed development would result in unacceptable visual impacts, is flawed (based on an

unprofessional interpretation of theoretical ZTVs); it is over-stated and it is based on unsubstantiated judgment and subjective opinion. Interestingly the Council Officials do not use the word 'adverse'. The preferred word of justification was 'unacceptable'.

**Impact of Visibility Overstated.** Some of the concerns of the Council Officials related to the impact of visibility of the proposal in contradiction to the assessment set out in the ES which demonstrates that in fact there would either be no visibility or negligible visibility. For example, there would be **negligible visibility** of the scheme from Muthill as explained in section 8.6 of the ES and illustrated in Figure 8.35a/b/c/d located on a high point from above the village. The Drumderg Wind Farm is noted as 35km distance from the proposed development in Table 8.4 of the ES and the viewpoint assessment in Appendix 8.2 identifies **no instances of significant cumulative visual effect** in combination with this wind farm. As another example, the A822 National Tourist Route is assessed in Table 8.10 and reports **no significant visual effects**, whilst ZTV maps provided with the ES demonstrate that there would be **no visibility** from the road **within 10km**. Too much weight was given by Council Officials to this aspect of this policy, visual impact, when ten other different aspects of this policy were judged environmentally acceptable and had not been objected to by the qualified, specialist statutory consultees who had considered them. The impacts of visibility of this proposed development are acceptable and are not of sufficient magnitude to undermine the planning objectives of Policy ER1A (a). Little attempt was made to weigh the importance of other aspects LDP Policy ER1A (a) and no attempt was made to weigh the importance of SPP in relation to LDP Policy ER1A (a).

**Impact of visibility over 10km overstated.** The ES Appendix 8.2 (**Production 3**) sets out a clear viewpoint assessment from a range of viewpoint locations previously agreed with SNH and the Council within a 35km study area. This is a standard approach to wind farm assessment that accords with SNH guidelines. The results of that assessment are all illustrated by the viewpoints which have been judged as acceptable by SNH and confirm that there would be no significant visual effects beyond 10km with the magnitude of change limited to **Low or Negligible** in each case. Further it should be noted that these viewpoints tend to be located in elevated areas or other areas where there would be clear visibility and in that respect, should not be regarded as typical. The Appellant contends that the impact of the proposal from these viewpoints, over and above the baseline is **not significant**.

**Cumulative Impact simply not an issue.** The Council Officials provided no detailed explanation as to why 4 additional turbines over and above the existing baseline would exceed the capacity of the landscape or would create a wind farm landscape for human receptors. The evidence before the Local Review Board does not support such assertions.

**Unrealistic to attempt to conceal Wind Turbines.** It is inevitable that four large turbines will be seen over a wide area particularly since they have been purposefully located in an area where the wind resource is strong. This usually means that to a large extent they are exposed and prominent. It is unrealistic to attempt to conceal

turbines and instead Developers are encouraged to ensure that the visual impacts arising are made more acceptable by making best use of topography. In the case of Parks of Keillour the layout was designed to follow SNH Guidelines as closely as possible: there is a clear area around the turbines to act as a buffer and then a 75% enclosure around the peripheral area comprised of coniferous and deciduous trees. Topographic screening arising from undulating slopes and a particular shoulder formation of land have made the site heavily screened to the West, North and East. This is very evident from a site visit.

**Advice of Scottish Ministers ignored by Council Officials.** Scottish Ministers recognise that wind turbines are likely to be prominent or relatively prominent in the landscape up to 5 km (and in rare conditions of visibility, up to 15km). However, the Scottish Government has not wavered and remains committed to onshore wind energy, as a matter of Government Policy, which is both acceptable in principle and in practice.

**Conclusion.** Where significant effects occur they would be localised and appreciated by a relatively limited number of people. The Appellant contends, therefore, that the visual impacts of the proposal are not of sufficient magnitude to undermine the planning objectives of Policy ER6 (a) or (b).

## REBUTTAL OF REASON FOR REFUSAL 3

The Appellant contends that the assessment by the Council Officials that the location, dominance, scale and layout of the proposed development would result in unacceptable cumulative visual impacts, is flawed (based on an unprofessional interpretation of theoretical, flat-earth, ZTVs), is over-stated in terms of spatial separation and is based on personal judgment and subjective opinion. Overall the main significant visual impacts are localised and would be appreciated by a relatively limited number of people many of whom (within 2km) supported the proposed development.

### **Planning Contention 3.1 : Planning Policy Justification Flawed**

The Appellant contends that Council Officials were simply wrong on this occasion to add such significant weight to such a minor, insignificant (in EIA terms) issue. Cumulative impact is not an issue.

At page 3 of the *Report of Handling* the Planning Officer states that:

*“There are no similar sized turbines within a 15km radius of the site.”*

**Screening very effective on the ground.** Griffin wind farm at 18km to the North, Calliachar wind farm at 20km to the North-west and Drumderg at 35km to the North-east are all screened by topography and vegetation to the extent that they are not significantly visible from the proposed development site at Parks of Keillour.



Braes O'Doune lies 28km to the South-west and is also not significantly visible. So the Planning Officer's statement in the Report of handling that

*"The ES does not take into account the sensation of being surrounded by wind developments in the landscape,"*

merely demonstrates that the Planning Officer cannot possibly have carried out any detailed work on the ground and can only have relied on theoretical, flat-earth, ZTVs on which to have made such a flawed theoretical assessment. The reason that the Appellant's ES does not investigate, in copious detail, the sensation of being surrounded by wind developments in the landscape, is because there is no such sensation to investigate. You cannot experience a sensation of being surrounded by a series of distant Windfarms, over 15km away in all directions, if you can't actually see them or hear them regularly. Hazy and misty weather across Strathearn frequently reduces long-range visibility to the extent that even with binoculars the technically visible wind farms, identifiable as small dots on the horizon, over 18km away, (*Lochelbank* is 19km to the South-East and *Greenknowes* is 20km to the South) are rendered completely invisible. The use of the word 'surrounded' is highly inaccurate (nothing is significantly inter-visible to the West, North or East) and the perceived 'sensation' is not substantiated by any evidence.

**Baseline has already been created.** Again, it is obvious from reading the *Report of Handling* that not everyone in PKC agreed with the previous decisions taken in relation to the now operational Calliachar (+ extension) and Griffin wind farms and indeed that the PKC Planning Officials did not agree with the Binn Farm, Glenfarg development, even though it was approved by PKC Development Management Committee on 15 July 2015. Nevertheless, the fact remains that these developments have been considered environmentally acceptable overall by the relevant decision-makers. They are now part of the established baseline in Perth & Kinross for any cumulative impact assessment. Therefore, the relevant judgement for the Local Review Board to make is to assess the planning harm created by an additional 4 wind turbines at Parks of Keillour over and above the already established baseline.

**Planning Contention 3.2 : No Spatial Framework has been produced by PKC.** The reason for refusal is highly subjective because PKC do not have an up-to-date spatial framework for onshore wind energy developments. It is difficult to see how an appropriate 'spatial fit' can be assessed in anything but subjective terms without an adopted spatial framework to underpin planning decisions.

In all, the concern of the two Council Officials that Parks of Keillour 4-Turbine development would create a wind-farm-dominated-landscape is considerably overstated. Three developments in the Ochil Hills to the South: *Greenknowes* (18 turbines @ 20km distant), *Lochelbank* (12 turbines @19km distant) and *Braes O' Doune* (36 turbines@28km distant) are all inter-visible with each other but not all with Parks of Keillour and all three raised much greater issues with cumulative visual impacts. And yet all three developments were approved. Furthermore, in approving *Lochelbank* (following an appeal to Scottish Ministers), the Reporter hinted that

other wind farms could still be accommodated in this area of Perth & Kinross. So, it is hard to comprehend how a four-turbine development could create a wind farm landscape. In reality, four additional wind turbines will create a minimal visual impact in the context of the surrounding areas and will not cause any adverse cumulative impacts.

**Planning Contention 3.3 : Perception of Cumulative Impacts only theoretical.** The insistence, by the two Council Officials, on including the cumulative landscape and visual impact factor as the third Reason for Refusal (when the nearest other large wind turbine development was 18 km away) was unreasonable and based on a flawed interpretation of the Zones of Theoretical Visibility (ZTVs) studied. Scottish Ministers recognise that wind turbines are likely to be prominent or relatively prominent in the landscape up to 5 km (and in rare conditions of visibility, up to 15km). At over 15km distant it is a considerable overstatement to suggest a wind farm landscape is being created. In the case of the Parks of Keillour proposal there are no neighbouring operational wind turbine developments within a 18km radius of the development site (nearest visible wind farm in good weather conditions is *Lochelbank* 19km to the South East). Consequently, the suggestion that it would be possible to feel surrounded by wind farms is an implausible suggestion. Furthermore, the 15km radius is heavily screened to the West, North and East making the claims of not only being surrounded by, but also living in a windfarm landscape similarly implausible. ZTVs fail to take into account visual screening from topography, built form, trees and vegetation and give a misleading perspective about what can actually be seen in reality. They are a start point to the process and not an end point. Some of the statements made about the inter-visibility of turbine developments were quite simply unfounded and clearly made from a desk-top perspective, relying solely on the ZTV. The ZTV assumes that everywhere is flat and therefore assumes that objects can be seen for miles. It is a famously imperfect assessment tool. It is not a sufficient justification to state that because the turbines are prominent or can be theoretically seen that they should be resisted by the Council on Landscape and visual impact grounds, or that because there appears to be inter-visibility of some developments on a theoretical ZTV map, that there must be an adverse cumulative impact. Planning harm needs to be clearly established by detailed assessment on the ground and clearly articulated by the decision-makers: especially when there are no other justifiable natural heritage, cultural or technical reasons for doing so. As mentioned earlier, Scottish Ministers recognise that wind turbines are likely to be prominent or relatively prominent in the landscape up to 5 km (and in rare conditions of visibility, up to 15km).

## **REBUTTAL OF REASON FOR REFUSAL 4 – POSITIVE CONTRIBUTION**

**Planning Contention 4.1 : Policy PM1 is primarily directed to Urban Development**

The Council Officials have rather surprisingly used Policy PM 1 on 'Placemaking' to support their fourth Reason for Refusal. The Policy is in three parts (PM1A, PM1B and PM1C) and refers to further guidance from a Scottish Government Publication entitled '*Designing Streets: A Policy Statement for Scotland.*' The Appellant fully accepts that good design is an important general objective for a development proposal, including a development such as the proposal for four turbines. However, it is important to note that SNH did not voice concerns about the design and layout of the four turbines, only about the height (scale). Furthermore, it is clear from the detailed wording and the explanatory text that Policy PM1 is primarily directed to urban development which deals clumsily and awkwardly with wind turbine developments.

#### **Planning Contention 4.2 : Proposed Development actually supports Policy PM1A**

The Appellant considers that the development proposal is actually consistent with Policy PM1A because it has been "*planned and designed with reference to climate change, mitigation and adaptation.*" Energy produced by the wind turbines is a direct mitigator of climate change, as it would reduce carbon emissions by displacing the need for fossil fuel power stations to produce the equivalent electrical energy.

Policy PM1A, therefore, does not add any additional considerations for the Appellant in comparison with Policies ER1 and ER6. The argument made here by the Council Officials does not hold water.

#### **Planning Contention 4.3 : Subjective assessment of positive contribution flawed**

The Appellant contends that the assessment by the Council Officials that the development does not contribute positively to the quality of the surrounding built and natural environment (as the design, siting and scale of the development does not respect the character and amenity of the Strathearn area), is flawed when the detailed landscape and visual evidence presented by the Appellant is properly considered. The contribution of 12MW of clean, green energy to combating climate change is significant. Clearly, the development would make a positive contribution in both bio-physical terms and in socio-economic terms to increase resilience to climate change. The closure of Longannet Coal-fired Power Station in Alloa, Fife, in March 2016 (loss of 2,256 MW) will underscore the importance of the positive energy contribution the Parks of Keillour Development will make to the region. Every little contribution will help as Scotland loses 18% of its generating power without immediate prospect of replacement in March 2016.

## **REBUTTAL OF REASON FOR REFUSAL 5**

The Appellant contends that the assessment by the Council Officials that the proposed development will adversely impact the special landscape quality of the

designated Special Landscape Areas of Glenalmond and Sma' Glen; Upper Strathearn; Ochil Hills and Sidlaw Hills, is the most artificial reason for refusal of them all. Like the previous 4 grounds it is professionally flawed, over-stated and based on unsubstantiated judgment and subjective opinion.

### **Contention 5.1 :Guidance published after submission of Application in March 2015.**

**Guidance not in force at the time of submission.** This final reason for refusal draws its support from the 'PKC Supplementary Guidance on Landscape' which was adopted by the Council on 15 June 2015, 30 days before the Decision Notice was issued for this Planning Application, and over 3 months after the Planning Application had been validated at PKC on 25 March 2015.

**Appellant given no opportunity to assess impacts.** No opportunity was given to the Appellant to address and assess the environmental impacts of this new piece of guidance. It was simply sprung on the Appellant on 15 July 2015 without notice or warning. Supplementary Environmental Information (SEI) could easily have been requested by PKC, between 17 June 2015 and 13 July 2015, but the Planning Officer *et al.* chose to stay silent. This was unreasonable conduct on the part of the both the Council Landscape Officer, Douglas Cook and the Council Planning Officer, Steve Callan. Indeed, this matter alone should have prompted the Planning Officer to put this application before the Development Management Committee on 15 July 2015 or at the subsequent meeting in August 2015, because it would clearly create controversy if left unaddressed.

**Refusal rushed through to meet 4-month-deadline.** However, worried that the 4 month expiry date was imminent, the Planning Officer rushed the refusal through under delegated powers not even waiting for the written response from SEPA which arrived after 15 July 2015 and was not published on the PKC website until 20 July 2015. Ironically the SEPA letter withdrew an earlier technical objection. However, the Council Officials had pressed on and decided on a refusal without the benefit of SEPA's professional advice.

**Misuse of Delegated Powers.** When powers were delegated by Scottish Ministers and *Schemes of Delegation* were introduced, the intention was that Planning Officials would deal with (1) straightforward; (2) small scale; (3) uncontroversial applications to ease the workload of Scottish Ministers and Development Management Committees under the authorised *Schemes of Delegation*. The Parks of Keillour proposal was not straightforward and most certainly controversial, generating a similar number of letters from the public as the Binn Farm, Glenfarg proposal which was heard by the Development Management Committee.

**No Detailed Professional Assessment carried out by Council Officials on SLAs.** No detailed professional assessment, by professional landscape architects, was carried out to assess the impact of the proposal on the four locally designated, neighbouring SLAs quoted by the Council. In contrast to this omission by Council Officials, the

Appellant's Chartered Landscape Architect has provided an appraisal of the likely effects as follows:

**Sidlaw Hills SLA** is 15.2km distant from the nearest turbine and 16.4km distant from the nearest point within the SLA where it would be possible to view the proposed turbines. ES Viewpoint 18: Kinnoul Hill illustrates the view and at this distance it is unlikely that the effects would be greater than **Slight to None**.

**Ochil Hills SLA** is 10.4km distance from the nearest turbine and 11.3km distance from the nearest point within the SLA where it would be possible to view the proposed turbines. ES Viewpoint 13: Dunning illustrates the view from this area and at this distance it is unlikely that the effects would be greater than **Slight to None**.

**Upper Strathearn SLA** is 4.5km distance from the nearest turbine and 10.3km distance from the nearest point within the SLA where it would be possible to view the proposed turbines. ES Viewpoint 13: Dunning illustrates the view from this area and at this distance it is unlikely that the effects would be greater than **Slight to None**.

**Glenalmond and Sma' Glen SLA** is 4.8km distance from the nearest turbine and 6.8km distance from the nearest point (a point on General Wade's Military Road) within the SLA where it would be possible to view the proposed turbines. At this distance it is unlikely that the effects would be greater than **Slight to None**. Drawing from previous site visits and ZTV / wireline analysis there would be **no view of the proposed development from within the Sma' Glen and the A822 National Tourist Route (area northwest of junction with the B8063)**.

To conclude, there would be no significant adverse effects on any of the SLAs and it is unlikely that the effect on these designations would exceed Slight.

**Proposal not located in Special Landscape Area.** At page 9 paragraph 2 of the Report of Handling, the Planning officer makes it clear that:

*"the application site is within the local Landscape Unit 33 – Keillour Ridge/Methven Hills which is outwith any designated landscape area."*

The Appellant respectfully requests that the Local review Board over-turns the final reason for refusal in the interests of dealing with the Appellant's Planning Application in a fair and consistent way.

## CRITICISMS OF GENERAL HANDLING

**General Contention 1:** Highly subjective judgements by Council Officials – impact on Road Users



The impact on Road Users was not mentioned in any of the five Reasons for Refusal. However, more than a page of the Planning Officer's Report of Handling was devoted to it. The assessment finished on page 21 with a sweeping generalisation that *"the proposal is considered to have a detrimental effect on road travellers along important tourist routes in the area."* This statement was entirely unsupported by evidence and flew in the face of the advice from Transport Scotland.

In stark contrast to the conclusions of the Council Officials, a detailed assessment of impacts on Transport Routes was carried out at pages 90-96, Chapter 8 of the ES at Volume 2 to the EIA (**Production 3**). The assessments made by professional consultants carrying out detailed work on the ground can be summarised as follows:

#### **VISUAL IMPACT ON ROAD USERS OF A9, A822 & A855 –NOT SIGNIFICANT**

- A9 – Overall impact of proposal **Not significant.**
- A822 - Overall impact of proposal **Not Significant.**
- A823 - Overall impact of proposal **Not Significant.**
- A85 - Overall impact of proposal **Not significant.**

**Where is the evidence of detrimental effect?** No evidence of systematic survey, research or even a detailed explanation of why the Planning Officer viewed impact of the proposal to A822, A823, A85 and A9 road travellers as significant, was made available. The evidence on the ground actually shows a preponderance of 'not significant assessments' and 'no views at all' in the detailed analysis in the Environmental Statement (Volume 2 to EIA). The assessment of the unelected Council Officials flew in the face of all work done by professional consultants and professional advice from Transport Scotland. In order to demonstrate planning harm in his Report of Handling, the Planning Officer uses the phrase *"potentially distracting"*, indicating a subjective view formed by personal judgement which was again unsupported by any evidence or detailed investigative work in the field. Most infrastructure, visible from roads, is potentially distracting if drivers lack the will or discipline to concentrate on the road ahead. The evidence from professionally qualified consultants, AMEC FW, on behalf of the Appellant, does not support the findings of the two Council Officials. Furthermore, the Planning Officer writes in his own *Report of Handling* at page 26 that *"consultation with the Roads Authorities (Transport Scotland and the Council's Transport Planning section) has been undertaken and neither have objected to the proposal."*(page 26 penultimate paragraph). The word 'detrimental' was never used by the specialist professional advisers, only by the Council Officials. 'Planning Detriment' needs to be demonstrated and supported by evidence of some sort.

#### **General Contention 2: Use of unprofessional generalisations by Planning Officer**

The Planning Officer invented a new classification of *"reasonably significant"* (page 21, Report of Handling) which is not an EIA phrase recognised by professionals in the industry. This was another example of subjective assessment being made by Council

Officials. What does '*reasonably significant*' actually mean? Does it mean significant or not significant? 'Reasonably significant' is in fact a value judgement and has no precise application in EIA Practice or Planning Law terms.

### **General Contention 3: Inconsistency and lack of attention to fundamental detail**

The Planning Officer was not sure of tower measurements, throughout his Report of Handling. The first time, he cites the proposed hub height at '*80 metres*' (page 2) but, then, twice he cites it at '*85 metres*' high (page 13 & 15). This confused sequence of text appears to be evidence of a rushed job with a lack of detailed assessment. How accurate are his overall assessments of scale when he fails to get the basics of the tower height clear in his own mind? The Development Quality Manager also failed to pick up this series of errors. This is highly ironic when the main pillar of argument for refusal of the Parks of Keillour Application was the scale of the turbines.

On **Page 4** of the *Report of Handling*, public consultation events are incorrectly referenced. Only one evening presentation was delivered in Methven School to Community Councillors. However, crucially, the Planning Officer missed out 4 full days of Public exhibition (2 days for each exhibition) at the Huntingtower Hotel, in Perth, once in October and once in November 2014. The reader is again misled by lack of attention to important detail by the Council Officials.

On **Page 9** of the *Report of Handling*, the planning officer misleads the Reader by stating categorically that wind farms "*reduce the value of the scenery*" (Page 9, *Report of Handling 15 July 2015*). However, he is imprecise about defining his terms, or explaining the context and bigger picture explained in the 2008 Study. He inadvertently omits to stress that the value of the landscape, as defined by the Authors in the 2008 Study is the emphasis of the "*value*" as primarily of "*jobs and incomes*" and not "*the satisfaction individuals obtain from viewing a beautiful landscape*" (Please see page 85, paragraph 1 of the Study: '***The economic impacts of wind farms on Scottish tourism, March 2008***'). Furthermore, the Planning Officer omits critical extracts from the overall conclusion to the entire study, and fails to paint the much more balanced picture, provided by the Authors. In *The Economic Impacts of Wind Farms on Scottish Tourism*[2008]) the authors actually stated the following:

#### ***GENERAL CONCLUSION***

*"We conclude that, whilst there is evidence of a belief from local people, prior to a development, that it might be injurious to tourism, there is virtually no evidence of significant change after the development has taken place.".....*

*"The conclusion is that any effects we are likely to find in Scotland, if they exist, are likely to be small.".....*

*“On the question of value the evidence is more ambiguous. Clearly, people state they prefer scenery without intrusions, such as wind farms, and when asked to compare give small but significant negative values to wind farm developments. Empirically, however, these changes are so small, relative to other socio-economic factors, that they often cannot be directly identified in time series studies of property values.”.....*

*“In terms of economic impact, changes in property values should have no effect on expenditure in the area.” (The Economic Impacts of Wind Farms on Scottish Tourism[2008])*

**Further Omissions by the Council Officials from the 2008 Report.** Furthermore, the Council Officials failed to include in their assessment a series of critical comments in the Study which seriously question the veracity of the last paragraph on page 9 of the *Handling Report* produced by the PKC Planning Officer, Steve Callan. The following extracts from the *The Economic Impacts of Wind Farms on Scottish Tourism [2008]* provide a picture which was not represented in the Planning Officer’s *Handling Report* of 15 July 2015.

#### ***“EXECUTIVE SUMMARY”***

**Page 4:** *“Overall there is no evidence to suggest a serious negative economic impact of wind farms on tourists.”*

#### ***“FINDINGS” OF THE 2008 CASE-STUDY AREAS OF WHICH PERTH & KINROSS WAS ONE OF FOUR***

**Page 8:** *“In total three quarters of people felt wind farms had a positive or neutral impact on the landscape.”*

**Page 8:** *“Interestingly the proportion of respondents whose main activity was indicated as walking/hill-walking (where the landscape change is a major part of the experience) and who indicated a negative attitude to wind farms (19%) was lower than the overall figure of 25%; and likewise they were also more positive (45% Vs 39%).*

**Page 8 :** *“The results confirm that a significant minority (20%-30%) of tourists preferred landscapes without wind farms. However, of these only a very small group were so offended that they changed their intentions about revisiting Scotland.”*

**Page 9:** *“Under all circumstances the vast majority (93% - 99%) of those who had seen a wind farm suggested that the experience [on Visitor Intentions to Return] would not have any effect. Indeed there were some tourists for whom the experience increased the likelihood of return rather than decreasing it.”*

**Page 15: PLANNING RECOMMENDATIONS.** *“In general this research has found that the negative impact of wind farms at national level is small, and any reduction in*

*employment in tourism will be less than the numbers currently directly employed in the wind power industry.*

**Page 16: CONCLUSIONS.** *“This research has shown that even using a worst case scenario the impact of current applications would be very small and for three [ (1) Dumfries & Galloway; (2) the Scottish Borders; (3) Perth & Kinross] of the four case-study areas would be very small. The fourth, Caithness and Sutherland has an extremely fragile economy.....*

**Gross Distortion by Council Officials of the 2008 Report.** It is therefore a gross distortion of the 2008 research study to write in the *Report of Handling*, at the bottom of page 9, that *“The research concluded that the evidence is overwhelming that wind farms reduce the value of the scenery.”* The Planning Officer did not provide a clear definition of value and has quoted small snippets, out of context, to support the pre-judged case for refusal. The empirical evidence does not support the Planning Officer’s overall assertion.

**Distortion of DTA 2010.** Page 17 of the *Report of Handling* wrongly references the DTA 2010 Report, citing 2.2b when 2.2e which applies to 20MW developments and below, should have been referenced. This is a fundamentally critical point because it was para 2.2e which provided a yardstick for acceptable scale of the turbines, not para 2.2b, which simply did not apply to a 12MW proposal. This appears to have been a sleight of hand by the Council Officials, to support their pre-judged case for refusal.

**Report rushed to meet 4-Month-Expiry Deadline.** The Handling Report and Refusal process appear to have been so rushed that there was insufficient time to check the Report of Handling for errors.

**Page 14** of the *Report of Handling* indicates that the Planning Officer was so rushed that he was unable to check small mistakes. On page 14 ‘is’ should have been ‘are’.

**On Page 15** of the *Report of Handling* ‘heights’ should read ‘height’.

**On Page 15** of the *Report of Handling* ‘lout’ should read ‘out’.

#### **CRITICISMS RETRACTED BY SCOTTISH NATURAL HERITAGE ON 4 SEPTEMBER 2015**

**Page 15-16** Comments on LVIA have now been retracted by SNH (in letter dated 4 September 2015). See **Production 11**.

This series of mistakes in the Report of Handling sends out the message that (1) the Report was rushed in order to push through the pre-judged refusal before the expiry date of 16 July 2015; (2) the Planning Officer was not over-concerned about double-checking his work and the Development Quality Manager was not over-concerned either; (3) neither of the two Council Officials appeared to have cared whether or

not the Appellant would gain value for money from the £20,000 planning fee paid to Perth & Kinross Council to process the application. The application was pre-judged for refusal at a very early stage of the process in direct contravention of best practice and was not treated fairly or consistently.

#### **General Contention 4: Creating un-adopted Policy**

**On Page 16** of the *Report of Handling*, the Planning Officer wrongly interprets TAYPlan 6 as placing some sort of duty on development proposals to maintain and enhance the landscape qualities of Perth & Kinross. In fact the Policy Document actually stresses that development proposals should assess a range of impacts, on the basis of a range of factors, of which sensitivity of landscapes is just one of many cited in TAYPlan Policy 6 paragraph C. So the key activity is 'justification through assessing a range of impacts' not maintenance and enhancement of the landscape qualities of Perth & Kinross. The Planning Officer has added in, an additional duty to developers to maintain and enhance landscape qualities even though it has not been formally articulated in TAYPlan Policy 6. The procedure for formally adopting a new PKC Planning Policy has not been followed correctly here.



# **PART 7**

## **COMMUNITY BENEFIT INVESTMENT OPPORTUNITY AND ECONOMICS**



# PART 7. COMMUNITY BENEFIT INVESTMENT OPPORTUNITY AND ECONOMICS

## Community Benefit Payments

The proposed development will enable the land owner to diversify the current farm business by securing a land rental, from the turbine owners and operators, as a stable income stream payable quarterly for a period of 25 years. Project income will accrue from revenue gained from the sale of renewable electricity to SSE or to the National Grid.

This development will not benefit from any Government Subsidy under the ROC scheme because the ROC scheme is being terminated by the present UK Government in 2016. Furthermore, the proposed development has not been funded in any way by Government or the Tax-Payer.

Although direct payments to the community are classified as non-material benefits, a total of £102,000 per annum (assuming 12 MW of installed capacity is approved) will be distributed to a range of stakeholders in the Perth & Kinross Community in order to support household incomes, encourage economic growth, create additional job opportunities and help modernise the farm at Parks of Keillour. Assuming the successful development of a rated output capacity of 12MW is approved, the Developer will offer 'no-strings-attached' financial benefits as follows.

- In order to provide a share for education, a total of £10,000 per annum will be offered to the school located nearest to the development which is Glenalmond College. This represents £250,000 over the 25 year life of the project.
- To provide a share for the immediate local community, a collective total sum of £65,000 per annum will be divided amongst a number of residents living close to the Turbine whose visual amenity is impacted in some way by the development. (This represents £1.6 million over the 25 year life of the project).
- To provide a share for the local authority (PKC), a sum of £10,000 per annum will be offered to Perth & District Council (which represents £250,000 over the 25 year life of the project).
- To provide a share for Community Councils, a sum of £1,800 per annum will be offered to Methven Community Council (amounting to £45,000 over the 25 year life of the project) and £1,800 per annum will be offered to East Strathearn Community Council (amounting to £45,000 over the 25 year life of the project).

- Finally, to provide a small financial inject for local businesses, £12,000 per annum will be divided up and offered to a number of local businesses who are not already in receipt of a share of the development's income stream through the residential route.

The funds will be paid quarterly and will have no pre-conditions attached.

### Community Investment Scheme

In addition, the Appellant is committed to offering the wider community an opportunity to invest in the Parks of Keillour development. The Appellant will explore the opportunities of offering Green Bonds with an annual interest rate of 7.25% and maturity after a 4 year term, rolling over annually thereafter unless redeemed. Proceeds will be used to invest in the SRL business and develop further onshore wind-power projects in Scotland. This measure is consistent with the Scottish Government's Good Practice Document entitled '*Shared Ownership of Onshore Renewable Energy Developments*.' issued in September 2015. To access the document please cut and paste the following link into your net browser: <http://www.localenergyscotland.org/media/79714/Shared-Ownership-Good-Practice-Principles.pdf>. No link was made to this Government Policy by the two Council Officials, which was inconsistent with Paragraph 29, page 9 of Scottish Planning Policy (SPP) 2014 which clearly states that Net economic Benefit is a material planning consideration. This very recent document is attached at **Production 6** and the Appellant respectfully asks that the Local Review Board takes account of this new development as a material consideration, because it was ignored by the two Council Officials, even though the document went out to final consultation in April 2015 and was available to them during their decision-making period for this proposal.

### Contributing to Scotland's Economy

As well as contributing to Scotland's energy security and low carbon objectives, onshore wind can bring substantial new economic benefits and job opportunities to both the country as a whole and at local and regional level. A report by *BiGGAR Economics*<sup>7</sup> based on industry surveys and analysis of 18 case studies, showed that in 2011, onshore wind supported around 8,600 jobs and was worth £548m to the UK economy. Of this, around 1,100 jobs and £84m investment was estimated to occur at the Local Authority level in which a Wind Turbine Development was sited. This equated to almost £700,000 for every MW of onshore wind installed in the UK, with over £100,000 estimated as staying in the Local Authority area in which the wind Turbine Cluster was sited.

Between 1 April 2011 and 31st July 2012, DECC collated renewable industry announcements totalling over £2.7bn investment in onshore wind, supporting over 2,400 jobs (with further potential for over £3.7bn investment and over 1,100 jobs from possible projects and manufacturing opportunities not yet announced). At

paragraph 169 to Scottish Planning Policy 2014, the importance of economic benefit is once more emphasised:

**SPP 2014 Paragraph 169.** *“Proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and heat maps where these are relevant. Considerations will vary relative to the scale of the proposal and area characteristics, but are likely to include:*

- *Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*

### **Cost-Benefit Analysis is Good for Clean, Green Power**

According to the Global Commission on the World Economy and Climate Change (2014) the additional cost of investing in cleaner, greener technology over the period 2015-2030 will largely be offset by savings from constructing more energy efficient buildings, constructing more renewable energy generation infrastructure, creating cleaner, greener transport systems and from an overall reduction of energy use in industry. More than \$89 trillion dollars will be invested globally from 2015-2030 on upgrading infrastructure, and this will present a unique opportunity to secure low carbon economic growth and avoid dangerous climate change.

### **The Scottish Government’s 2020 Route-Map**

Finally, the two Council Officials gave no weight whatsoever, to the Scottish Government’s Route-Map for 2020, which gives a very clear strategic vision for the development of renewable energy to enable Scotland to become the renewables power house of Europe. Onshore wind is singled out as a spearhead feature of this strategic vision, but fails to get a mention in the Handling Report, from the two Council Officials.

*“Across all scales of renewable generation, from householder to community to large-scale commercial schemes, the Scottish Government is working to make Scotland the renewables powerhouse of Europe. The benefits are not only in terms of energy generation and future security of supply, but can underpin our economic recovery over the next decade and beyond”. (Scottish Government’s 2020 Route-map, published July 2011)*

*“The Government is committed to the continued expansion of portfolio of onshore wind farms to help meet renewables targets, with a robust planning system providing spatial guidance, a clear policy framework and together with a timely and efficient processing of Section 36 Electricity Act and planning applications...Onshore wind turbines can make a very large contribution to the progress to Scotland’s renewable electricity target, and help establish Scotland’s reputation as rapidly becoming the green powerhouse of Europe thanks to its underlying political commitment to make it happen”.(Scottish Government’s 2020 Route-map, published July 2011)*

**Paragraph 14** states that the Scottish Government's 2020 target:

*"is a challenge – to the energy supply sector, to our renewable industry and innovators and to Scotland's communities; it is both a statement of intent and a rallying call, embodying our firm belief that Scotland can and must exploit its huge renewables potential to the fullest possible extent – to help meet demand here and in Europe. It is as much about the value and importance of the journey as it is about the destination".*

*"Meeting the renewable electricity target by 2020 relies on the continued expansion of wind technology...To meet the 2020 target, average annual increases in installed capacity need to double".*

2020 Route-map for Renewable Energy in Scotland – Update (2013)

In refusing the Parks of Keillour Planning Application and in recommending the refusal of the Binn Farm, Glenfarg Planning Application (which was subsequently approved by the Development Management Committee) the Council Officials involved in both of these applications appear not to have read the Scottish Government's 2020 Route-Map which is a material planning consideration in its own right. It is given little or no weight in the Handling Report by Council Officials.

# **PART 8**

## **CONCLUSIONS**





## PART 8. CONCLUSIONS

The Appellant is contesting a planning decision made by Perth & Kinross Council, on 15 July 2015, based primarily on the subjective assessment of two Council Officials using delegated powers. Although assessing the Landscape and Visual impact of any wind development proposal is partly subjective in nature, objective findings from detailed assessment in the field are essential ingredients to help produce a well-informed, robust and rational decision to refuse/approve. Admirers of the elegance and design of wind turbines tend to assess the landscape and visual impacts as beneficial, whereas detractors, who view them as blots on the landscape, tend to assess landscape and visual impacts as adverse, whenever they are visible. In the Parks of Keillour Wind Turbine Development, the two decision-making planning officials, (using delegated powers), viewed the landscape and visual impacts as unacceptable and chose to refuse the application as they were entitled to do by the Scheme of Delegation. However, their decision was subjective and unreasonable. The decision was not supported by objective and fair assessment or underpinned by any objection from statutory consultees nor did it sufficiently explain the planning harm which they thought the development would cause. SNH expressed concerns about scale, but did not formally object to the proposal. Furthermore, a significant majority of the 17 members of the local community, who wrote letters of support, lived in residences within 5km of the development site. However, a significant majority of the 117 who objected to the proposal lived in residences beyond 5km from the development site and a significant number of the 117 objectors would not be able to see the wind turbines from their residences.

Throughout this Statement of Review the Appellant has demonstrated that the Council's reasons for refusal were not based on solid evidential grounds. The decision of the two planning officials to refuse the application, flew in the face of both Scottish Government advice and National Planning Policy which both actively promote the development of renewable and sustainable energies of all shapes and sizes. These factors were never properly analysed and weighed in the 'planning-balance-exercise' and were, on most occasions, dismissed in generalised, negative one-liners, which gave the reader no understanding of the extent of planning harm which was supposed to have been identified by the two planning officials. The strong support of both Scottish Government advice and National Planning Policy for renewable energy development, should have been viewed as weighty material considerations in themselves, to challenge and even set aside the perceived Development Plan conflicts, especially in the instances where the reasons for refusal were based on the subjective opinions and the personal judgements of two Council Officials. Grounds for Refusal 3, 4 and 5 were exceptionally weak based primarily on superficial and unsubstantiated opinions. Decision-making would have been far more robust if the application had been put before the Development Management Committee.

The Appellant contends that in the event that the two Council Officials had put this application to the Development Management Committee, (consisting of a group of

more mature, experienced, elected Council Officials), there is a reasonable likelihood that planning approval would have been awarded. The likelihood is high because on the same day (15 July 2015) a very similar planning application, for the same number of large turbines (four), at Binn Farm, Glenfarg, Perth & Kinross, was put before the Perth & Kinross Development Management Committee and given planning approval by a unanimous vote of 12 – 0. The decision not to put the Parks of Keillour Application to the Development Management Committee was clearly, in hindsight, an error of judgement on the part of the two Council Officials. The result was that the Parks of Keillour Planning Application was neither given a fair hearing, nor treated consistently. Coherent reasons establishing planning harm were never provided by either of the two PKC Planning Officials.

Worse still, reasons which actually mitigated any possible planning harm seem to have been deliberately omitted from the Report of Handling in an attempt to mislead the reader. The Appellant is referring here to the omission of the clause in the *David Tyldesley & Associates Report (2010)* to the Council, suggesting that the landscape around the Parks of Keillour area had the capacity to accommodate ‘*3-7 turbines of up to 120 metres in height.*’ This clause was omitted by the two Council Officials and the clause relating to ‘*8 - 12 turbines of up to 100metres in height for an application of 20MW rated output capacity and above*’, was included in the Handling Report to give entirely the wrong impression of the professional advice being provided and to over-exaggerate their argument about height and scale. If this was an accidental omission, it was an omission of gross incompetence which had a fundamentally adverse influence on the outcome of the application.

Irrespective of its relatively similar height, but lesser numbers when compared to the developments at Griffin (blade tip 124m), North Calliachar (blade tip 127m), the Parks of Keillour application was the subject of a full EIA consisting of 7 Volumes, over two thousand pages and over fifty thousand words. It was widely publicised in the *Dundee Courier*; through a presentation to two community councils; and by means of two, two-day exhibitions in October and November 2014, at the Huntingtower Hotel in Perth. The number of objections (117) indicates its relatively modest scale in comparison with Drumderg (665 objections) and Lochelbank (1077 objections) both of which were given planning approval following appeals to Scottish Ministers.

The Appellant has demonstrated through the systematic application of Landscape and Visual Impact Methodologies, rigorously followed by professionally qualified Landscape Architects AMEC Foster Wheeler of Glasgow, that the Parks of Keillour Wind turbine Cluster is an appropriately sited, conventionally designed development conforming to NPF3, SPP, SNH Guidance, the Strategic Development Framework and the Local Development Plan Policies. Consequently, there are no substantial or robust reasons why this application should not now be either referred to the full Development Management Committee for consideration at the next monthly meeting or consented by the Local Review Board itself, subject to all the appropriate planning conditions being put in place. Details of the Remedy Options, for

consideration by the Local Review Board, follow in Part 9 to this Statement of Review.

The Appellant reserves the right to expand upon this Statement of Review following receipt of papers from Perth & Kinross Council.

# **PART 9**

## **REMEDIES SOUGHT FROM LOCAL REVIEW BOARD**



## **PART 9. REMEDIES SOUGHT FROM PERTH & KINROSS COUNCIL LOCAL REVIEW BOARD**

The Appellant respectfully requests the Local Review Board, on completion of its review, to select one of the following four options to ensure that the Appellant is given a fair hearing by those with more qualifications and greater experience than the two Council Officials who originally refused the application, using delegated powers, on 15 July 2015.

### **Remedy Option 1**

Overturn the decision of the Council Officials made on 15 July 2015 under delegated powers, and grant full planning permission subject to the normal planning conditions associated with wind turbine developments.

### **Remedy Option 2**

Overturn the decision of the Council Officials made on 15 July 2015, under delegated powers, and grant full planning permission subject to the normal planning conditions associated with wind turbine developments, and subject to a special planning condition which allows the construction of a wind turbines at a reduced height. One option is that the specified height could be consistent with the height approved for the 4 x 115 metre Wind Turbines approved on 15 July 2015 for Binn Farm, Glenfarg, Perth & Kinross. A height of 115 metres would fall acceptably below the threshold recommended by the DTA 2010 Study (120 metres) which was commissioned specifically for PKC guidance.

### **Remedy Option 3**

Refer the matter to Scottish Ministers to be re-considered by a Reporter in Falkirk.

### **Remedy Option 4**

Refer the planning application to be re-heard by the Perth & Kinross Development Management Committee in the same way the Binn Farm, Glenfarg planning application was heard.

*The right is reserved to expand upon this Statement of Review following receipt of papers from Perth & Kinross Council.*

## **Author of Notice of Review Statement:**

**Michael C R Stamford**

BA MBA MSc FRSA

Chief Executive Officer

Stamford Renewables Ltd

**30 September 2015**

## **Attachments:**

1. Parks of Keillour Decision Notice dated 15 July 2015.
2. Report of Delegated Handling, by PKC Planning Officer, Steve Callan.
3. Environmental Impact Assessment (Volumes 1-7) produced by Appellant, which accompanies this Notice of Review.
4. Freedom of Information Requests from Appellant (2015).
5. Scottish Government's Good Practice Document entitled '*Shared Ownership of Onshore Renewable Energy Developments.*' issued in September 2015.
6. Relevant Extracts from David Tyldesley and Associates 2010 Study (part of PKC Strategic Development Framework).
7. The Economic Benefits of on-farm Wind Energy Clusters in Aberdeen (2010).
8. Minutes of Pre-Application Meeting (November 2014) between Appellant & PKC Planning Officer.
9. Minutes of Pre-Application Meeting (December 2014) between Appellant & PKC Planning Officer & PKC Landscape Officer.
10. Re-issued Advice Letter from SNH retracting previous criticisms (4 September 2015).
11. The Economic impacts of Wind Farms on Scottish Tourism (2008).
12. E-mails between the PKC Planning Officer Steve Callan and the PKC Landscape Officer Douglas Cook requested under the *Freedom of Information Act Scotland 2002*.



**TCP/11/16(380)**  
**Planning Application – 15/00445/FLL – Erection of four**  
**wind turbines and ancillary works, Parks of Keillour Farm,**  
**Methven, PH1 3RB**

**PLANNING DECISION NOTICE**

**REPORT OF HANDLING**



## PERTH AND KINROSS COUNCIL

Mr Michael Stamford Earlham Road Norwich NR4 7HP	Pullar House 35 Kinnoull Street PERTH PH1 5GD
	Date 15.07.2015

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **15/00445/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 25th March 2015 for permission for **Erection of four wind turbines and ancillary works Parks Of Keillour Farm Methven Perth PH1 3RB** for the reasons undernoted.

Development Quality Manager

#### Reasons for Refusal

1. The proposal by virtue of the location, dominance, scale and layout of the proposed wind farm would result in unacceptable adverse landscape impacts having regard to landscape character and setting within the immediate landscape and wider landscape character types contrary to Policy 6 of TAYplan and Policies ER1A (a), ER6 (a) (b) of the Perth and Kinross Development Plan.
2. The location, dominance, scale and layout of the proposed wind farm, the proposal would result in unacceptable visual impacts. Accordingly the proposal is contrary to Policies ER1A (a), ER6 (a) (b) (c) (f) of the Perth and Kinross Development Plan 2014.
3. The proposal by virtue of the location, prominence, scale and layout of the proposed wind farm and its relationship to other wind turbine developments in the area would give rise to unacceptable cumulative landscape and visual impacts. Accordingly the application is contrary to TAYplan Policy 6 and Policies ER1A (a)

(h), ER6 (a) (b) (c) of the Perth and Kinross Development Plan 2014.

4. The development does not contribute positively, to the quality of the surrounding built and natural environment as the design, siting and scale of the development does not respect the character and amenity of the Strathearn area of Perthshire and is contrary to policy PM1A of the Perth and Kinross Local Development Plan 2014.
5. The application is contrary to Perth and Kinross Council's Supplementary Guidance on Landscape June 2015 as the proposed visual impact will adversely affect the special landscape quality of the designated Special Landscape Areas of Glenalmond and Sma'Glen; Upper Strathearn; Ochil Hills; and Sidlaw Hills.

### **Justification**

The proposal is not considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at [www.pkc.gov.uk](http://www.pkc.gov.uk) "Online Planning Applications" page

### **Plan Reference**

15/00445/1

15/00445/2

15/00445/3

15/00445/4

15/00445/5

15/00445/7

## REPORT OF HANDLING

### DELEGATED REPORT

Ref No	15/00445/FLL	
Ward No	N9- Almond and Earn	
Due Determination Date	15.07.2015	
Case Officer	Steve Callan	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Erection of four wind turbines and ancillary works

**LOCATION:** Parks Of Keillour Farm Methven Perth PH1 3RB

#### SUMMARY:

This report recommends **refusal** of the application of four turbines and associated infrastructure including access, tracks, hardstanding, substation, cabling and meteorological mast at Parks of Keillour as the developments location, prominence, scale and layout of the proposed turbines will have an unacceptable and adverse impact on the immediate landscape character as well as the wider landscape setting. Additionally the turbines will have a significant and unacceptable visual impact on residential, tourist, transport and heritage receptors.

As the magnitude of the adverse effects associated with the development are significant and environmentally unacceptable, the proposal is not considered to comply with the overriding thrust of the Development Plan and there are no material considerations of sufficient weight which would justify departing from the Development Plan.

**DATE OF SITE VISIT:** 15 April 2015

#### SITE PHOTOGRAPHS



## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

The proposed site is approximately 5.2 hectares in area and predominantly consists of agricultural grazing land. It is located north of the A85 and is 12km west of Perth and 12km east of Crieff and within the lowland hills of Strathearn. Areas of Forestry Commission woodland are located north and west of the site and there are a number of individual rural dwellings located in close proximity. A 132KV overhead power line runs through the western half of application site in a south easterly direction.

The proposed development is for four wind turbines with hubs of 80 metres in height with 45 metres diameter rotors giving a maximum blade tip height of 125 metres. Each turbine will be pale grey in colour and should provide 3MW of energy. Therefore the total annual output should be 12MW and provide for the energy needs of 4,900 dwellings within Perth and Kinross. The proposal also includes associated infrastructure of formation of crane pads for each turbine, a site entrance, creation of an access track, meteorological mast, transformer compound and construction works compound.

Access to the site will be gained from the A85 where there is an existing junction. To accommodate windfarm traffic a new access track will be created within the application site boundary. This track will measure 970 metres in length and 5.5 metres wide. It will be constructed with crushed concrete and limestone on geotextile membrane

There appear to be no details of any borrow pits that would be formed to win material. Underground cables would connect the turbines to the electrical control building. The grid connection point for the scheme is not prescribed. The applicant has advised that it could possibly connect to the 132kv line running through the western part of the site and this this will be subject to a separate consent process.

The applicant expects the development to have an operational life span of twenty-five years. Construction would take approximately 12 months with decommissioning taking a further 2-3 months.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

Directive 2011/92/EU requires the 'competent authority' (and in this case Perth and Kinross Council) when giving a planning consent for particular large scale projects, to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.

This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse



effects, are properly understood by the public and the relevant competent authority before it makes its decision.

The Environmental Statement supports the planning application and is a key part of the application submission.

## **FURTHER SUPPORTING MATERIAL PROVIDED BY THE APPLICANT**

In addition to the Environmental Statement the applicant has also submitted the following documents in support of the application.

- Pre-application Consultation Report
- Planning Statement
- Design and Access Statement

## **SITE HISTORY**

14/01555/SCOP EIA Scoping Request submitted for proposed renewable energy development (wind turbine cluster). Scoping Opinion provided 22 October 2014

There are no similar sized turbines within the Strathearn Lowland Hills or within 15km radius of the site. However there have been some recent refusals for larger proposals in close proximity to the application site and there is an approval for a smaller scale proposal. They are as follows:

IEC/3/110 Scottish Government Energy Consents Unit –Application for consent under Section 36 of the Electricity Act for Wind Generating Station at Abercairney near Crieff. Application refused 8 September 2006 following Public Local Inquiry.

11/02151/FLM for the erection of 9 turbines at Mull Hill. Application was refused by Council Planning Committee in May 2013 and the appeal (Ref: PPA-340-2078) was dismissed on 23 April 2014 because of landscape and visual impact including cumulative impact.

14/00478/FLL for the erection of 2 turbines (45 metres high) at Drummick Farm, Glenalmond. Application approved by Council Planning Committee on 13 August 2014.

## **PRE-APPLICATION CONSULTATION**

Pre application Reference: Several pre-application meetings took place between applicant and Perth and Kinross Council especially Development Management, Strategic Policy and Research and Community Greenspace and Scottish Natural Heritage. Feedback to the applicant has consistently been that we were unlikely to support the proposal.

A number of public consultation events have also taken place in Methven prior to the submission of the application.

## **NATIONAL POLICY AND GUIDANCE**

The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

## **DEVELOPMENT PLAN**

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

**Policy 2:** Shaping Better Quality Places seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

**Policy 3:** Managing TAYplan's Assets seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

**Policy 6:** Energy and Waste/Resource Management Infrastructure of TAYplan relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

### **Perth and Kinross Local Development Plan 2014 – Adopted February 2014**

The Local Development Plan is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

**Policy PM1A - Placemaking**

Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

**Policy PM1B - Placemaking**

All proposals should meet all eight of the placemaking criteria.

**Policy PM2 - Design Statements**

Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

**Policy TA1B - Transport Standards and Accessibility Requirements**

Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

**Policy CF2 - Public Access**

Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

**Policy HE1A - Scheduled Monuments and Non Designated Archaeology**

There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

**Policy HE1B - Scheduled Monuments and Non Designated Archaeology**

Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

**Policy HE2 - Listed Buildings**

There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

**Policy NE1A - International Nature Conservation Sites**

Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no

alternative solutions and there are imperative reasons of overriding public interest.

**Policy NE1B - National Designations**

Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

**Policy NE1C - Local Designations**

Development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of local importance.

**Policy NE2A - Forestry, Woodland and Trees**

Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

**Policy NE2B - Forestry, Woodland and Trees**

Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

**Policy NE3 - Biodiversity**

All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

**Policy NE4 - Green Infrastructure**

Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

**Policy ER1A - Renewable and Low Carbon Energy Generation**

Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made for such schemes by a community may be supported, provided it has been demonstrated that there will not be significant environmental effects and the only community significantly affected by the proposal is the community proposing and developing it.

**Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes**

Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

**Policy EP2 - New Development and Flooding**

There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

**Policy EP5 - Nuisance from Artificial Light and Light**

Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

**Policy EP8 - Noise Pollution**

There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

**OTHER POLICIES**

**Perth & Kinross Wind Energy Policy & Guidelines (WEPG) 2005**

This supplementary planning guidance was approved by Perth & Kinross Council in 18th May 2005.

The Council recognises that following the publication of the Scottish Planning Policy in 2010 and 2014, it is necessary to revisit and refine the precise wording of its supplementary planning guidance on wind energy, to ensure that it provides the most up-to-date and helpful guidance for both developers and the Council in its consideration of planning applications for wind energy developments. I therefore consider that although the presence of this document should be noted, its weighting in the determination of this planning application should be limited.

In this particular case the site is located within a 'Broad Area of Search' in the Council's WEPG, where Community and Commercial wind farms will be supported where they are consistent with the Council's detailed Policy Guidelines.

**Perth and Kinross Council's Guidance for the Preparation and Submission of Photographs and Photomontages**

This provides advice on the selection and identification of viewpoints, photography standards and photomontage standards.

## **Tayside Landscape Character Assessment (TLCA)**

The Tayside Landscape Character Assessment (TLCA), 1999, is published by Scottish Natural Heritage and remains a valid baseline resource. Whilst some of its guidance on wind energy is dated, owing to the much smaller size of turbines considered in the TLCA, other aspects of the study remain a useful resource.

## **The David Tyldesley and Associates – Landscape Study – Wind Farm Development in the Ochil Hills and part of Southern Highland Perthshire (2004)**

This study is strategic in nature and concentrates on landscape character and visual amenity. Designations and associated policies are not taken into account, it adopts the landscape character types identified in the Tayside Landscape Character Assessment 1999 and divides them into smaller units.

## **The David Tyldesley and Associates – Landscape Study to Inform Planning for Wind Energy (2010)**

This documents purpose is to inform the development of the 'spatial strategy for Wind' which will be subject to consultation and ultimately approval by the Council as supplementary guidance. The need for the preparation of this Supplementary Guidance is detailed in the Local Development Plan under the heading 'Guidance to be published later' in Appendix 1: List of Supplementary Guidance.

At the outset, the author of the Study, states that the document should not be used in the determination of individual planning applications. .i.e. this study will provide only one 'layer' of information to inform that work.

The process of determining the methodology in this document was agreed through a steering group and consultation with landscape consultants. The results of that consultation can be found in Appendix A of Appendix C of the document.

Although this document will form part of a strategic planning framework and the report should not be used in isolation, or to 'test' proposed wind farm developments, there are elements of the study which are useful in the consideration of the application but the weighting that can be attached to this technical report is limited.

## **Perth and Kinross Local Landscape Areas Supplementary Guidance June 2015**

This supplementary guidance has been prepared to support Local Development Plan Policy ER6 "*Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes*". The supplementary guidance provides a review of local landscape



designations and received approval by Scottish Ministers on 17 June 2015 and has been adopted by the Council from this date.

For clarification the application site is within the Local Landscape Unit 33 – Keillour Ridge/Methven Hills which is outwith any designated Special Landscape Area (SLA).

### **The Economic Impacts of Wind Farms on Scottish Tourism (2008)**

Glasgow Caledonian University was commissioned in June 2007 to assess whether Government priorities for wind farms in Scotland are likely to have an economic impact – either positive or negative – on Scottish tourism. The objectives of the study were to:

- Discuss the experiences of other countries with similar characteristics.
- Quantify the size of any local or national impacts in terms of jobs and income.
- Inform tourism, renewables and planning policy.

The overall conclusion of this research is that the Scottish Government should be able to meet commitments to generate at least 50 per cent of Scotland's electricity from renewable sources by 2020 with minimal impact on the tourism industry's ambition to grow revenues by over £2 billion in real terms in the 10 years to 2015.

Four parts of Scotland were chosen as case-study areas and the local effects were also found to be small compared to the growth in tourism revenues required to meet the Government's target. The largest local effect was estimated for 'Stirling, Perth and Kinross', where the forecasted impact on tourism would mean that Gross Value Added in these two economies would be £6.3 million lower in 2015 than it would have been in the absence of any wind farms (at 2007 prices). The majority of this activity is expected to be displaced to other areas of Scotland, and the local effect on tourism should be considered alongside other local impacts of the developments – such as any jobs created in the wind power industry itself. This is equivalent to saying that tourism revenues will support between 30 and 339 jobs fewer in these economies in 2015 than they would have in the absence of all the wind farms required to meet the current renewables obligation. Part of this adjustment will already have taken place.

The research concluded that the evidence is overwhelming that wind farms reduce the value of the scenery (although not as significantly as pylons). The evidence from the Internet Survey suggests that a few very large farms concentrated in an area might have less impact on the tourist industry than a large number of small farms scattered throughout Scotland. However, the evidence, not only in this research but also in research by Moran, commissioned by the Scottish Government, is that landscape has a measurable value that is reduced by the introduction of a wind farm.

Based on survey responses and research findings, the research in this report suggests that from a tourism perspective:

- Having a number of wind farms in sight at any point in time is undesirable from the point of view of the tourism industry.
- The loss of value when moving from medium to large developments is not as great as the initial loss. It is the basic intrusion into the landscape that generates the loss.

These suggest that to minimise negative tourist impact, very large single developments are preferable to a number of smaller developments, particularly when they occur in the same general area.

### **Scottish Natural Heritage – Siting and Designing Windfarms in the Landscape (2014)**

Guides windfarms towards those landscapes best able to accommodate them and advises on how windfarms can be designed to best relate to their setting and minimise landscape and visual impacts.

### **Scottish Natural Heritage – Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012**

This document sets out methods to be used to assess cumulative impacts on landscapes and birds.

## **CONSULTATION RESPONSES**

### **External**

**Scottish Environment Protection Agency:** Originally objected to the proposal on grounds of lack of information regarding impact on wetland habitats. Additional information has been submitted and SEPA have confirmed by email that they withdraw their objection.

**Scottish Water:** No comments received.

**Scottish Natural Heritage:** Consider that the proposal would have significant adverse landscape and visual impacts on Strathearn and its surrounds predominantly due to the scale of the turbines and their visibility over a wide area including views from key transport routes and settlements.

**Royal Society of Protection of Birds:** No objection and welcome the proposed mitigation to protect red kites near the site.

**Transport Scotland:** No objection to the proposal but does recommend two conditions should be imposed with any consent.

**Historic Scotland:** Although there will be impacts on the setting of a number of historic environment assets within their remit they have no objection as proposal does not raise issues of national significance. They consider that the assessment of impacts within the ES has under-appreciated the level of impact of assets but their settings will remain capable of being understood and appreciated.

**Forestry Commission Scotland:** No objection to proposal as no impact on their forestry interests.

**The Mountaineering Council of Scotland:** No comments received.

**National Air Traffic Services:** No objection to the proposal.

**Ministry Of Defence – Windfarms:** No objection but does ask that each turbine is fitted with aviation safety lighting.

**Clackmannanshire Council:** No comments received.

**Loch Lomond and Trossachs National Park:** No comments received.

**Stirling Council:** No comments received.

**Methven and District Community Council:** Objects to the proposal on the grounds of adverse visual impact and on the landscape character of the area.

**Auchterarder and District Community Council:** Object to the proposal due to adverse visual impact for residents and visitors to Auchterarder and Aberuthven. Proposal is considered to be contrary to LDP Policies ER1A and ER6.

**Blackford Community Council:** No comments received.

**East Strathearn Community Council:** Object to the proposal as it will be an inappropriate development on the landscape and will have an adverse visual impact especially for residents of Harrietfield and travellers on the A85. Proposal is considered to be contrary to Policies ER1A and ER6 of the LDP.

**Muthill and Tullibardine Community Council:** No comments received.

**Crieff Community Council:** Concern expressed over the visual impact over Strathearn and Strathallan and its close proximity to A85 will pose a hazard.

**Dunning Community Council:** No comments received.

**Dunkeld and Birnam Community Council:** No comments received.

**Earn Community Council:** No comments received.

**Scone and District Community Council:** No comments received.

**Burrelton and District Community Council:** No comments received.

**Luncarty, Redgorton and Moneydie Community Council:** No comments received.

**Stanley and Kinclaven Community Council:** Objects to the proposal as it is contrary to TAYplan 2012 Policies 3 and 6, PKC LDP and PKC Supplementary Guidance for Wind Energy Proposals 2005. They consider the proposal will have a significant adverse visual impact with the surrounding landscape and the A85 and B8063 roads.

**Auchtergaven Community Council:** No comments received.

**Spittalfield and District Community Council:** No comments received.

**Coupar Angus, Ardler and Bendochy Community Council:** No comments received.

**Blairgowrie and Rattray Community Council:** No comments received.

**Alyth Community Council:** No comments received.

**Meigle Community Council:** No comments received.

#### **Internal**

**Perth and Kinross Heritage Trust:** No objection but do recommend a condition is imposed with any consent for an archaeological scheme of investigation to be submitted prior to any development taking place.

**Community Greenspace:** No comments received.

**Environmental Health:** No comments received

**Transport Planning:** No objection to the proposal provided applicant enters into a S96 maintenance agreement for all local roads.

**Conservation Officer:** Concern expressed that there will be a moderate to significant visual impact on Keillour Castle itself and its Garden and Designed Landscape.

**Local Flood Prevention Authority:** No objection to the proposal but does require a drainage scheme in line with what is recommended in the ES be submitted prior to construction.

**Strategic Planning and Policy:** Significant adverse impact and on landscape character of the area. Significant visual impact from nearby summits and plateaus, on 34 residential properties, from 2 core paths, from parts of the A85

and from within the Highland Boundary Fault. Consider that the proposal is not in accordance with TAYplan Policy 6, and the Perth and Kinross Local Development Plan policies ER1 or ER6 and in particular points ER1 (a) and ER6 (a and b).

The David Tyldesley and Associates Landscape Study to inform planning for wind energy (2010) identifies that the proposal lies just outwith the sensitive visual compartment of the Highland Boundary Fault and it recognises that this landscape is of low sensitivity and has potential to accommodate some small scale wind farm proposals. However the proposal is for 4 turbines of 85m hub height and 125m turbine tip height is a medium wind farm proposal and the study did not identify potential for this scale of wind energy development here. It is considered that the reason for this is evident from the assessment of landscape and visual impacts of this proposal and the height of the turbines are significant to its potential impacts.

**Biodiversity Officer:** No comments received.

**Mr Dick Bowdler (Acoustic Consultant):** No comments received.

## **REPRESENTATIONS**

There have been 134 representations submitted in relation to the application with 117 objecting to the proposal and 17 in support.

The letters of support highlighted the following:

- proposal accords with Government Policy on renewables;
- significant contribution to Co2 reduction targets and Government Renewable Energy targets;
- contribute to reduction in fossil fuel uses and dependence;

The following issues were raised in the objections received:

- Contrary to Strategic Development Plan
- Contrary to Local Development Plan
- Inappropriate land use
- Adverse impact on landscape and its character
- Adverse visual impact
- Out of scale with area
- Excessive height
- Adverse impact on birds
- Adverse environmental impact
- Adverse impact on tourism
- Noise pollution
- Loss of trees
- Adverse impact on residential amenity
- Visual distraction to nearby road users in particular A85

The above matters are addressed in the planning appraisal section of this report.

#### **ADDITIONAL STATEMENTS RECEIVED:**

Environment Statement	Submitted
Screening Opinion	Undertaken
Environmental Impact Assessment	Submitted
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact	Transport Assessment, Flood Risk and Drainage Assessment submitted as part of EIA

#### **APPRAISAL**

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

#### **Policy Appraisal**

Policy 6 of the TAYplan Strategic Development Plan relates to the aim of delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets. Of all the Strategic Plan policies, this is the most relevant to the determination of the proposal. The policy seeks to grow and deliver this type of infrastructure in the most appropriate locations; it puts emphasis on the need for local development plans to be consistent with Scottish Planning Policy requirements and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impact.

With regards to the Perth and Kinross Local Development Plan there are numerous individual policies that are applicable in the determination of the application as detailed in the policy section.

Policy ER1A: New facilities is of particular importance to this assessment and confirms that proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported subject to a

number of factors being taken into account. These include the individual or cumulative effects on landscape character, the contribution towards meeting carbon reduction targets, the impact on the local economy, including tourism and recreation interests, and their fit with the spatial framework for wind energy developments. The latter is to be provided by supplementary guidance for large scale wind energy and other developments.

Although the policy position is generally supportive of renewable energy schemes this is subject to a number of criteria being satisfied. While renewable energy schemes may meet certain environmental requirements and not others an overall judgement has to be made on the weight to be given to the 'positives' and 'negatives' which will determine whether it is environmentally acceptable. Any significant adverse effects on local environmental quality must be outweighed by the proposals energy contribution. These factors are considered in the assessment that follows.

### **Design and Layout**

It is considered that the proposal is for 4 turbines of 85m hub height and 125m turbine tip height is out of scale with the surrounding rural landscape and because of its heights its potential impact is likely to be significant.

SNH commented that whilst the horizontal extent and the layout of the development would likely be in keeping with the surrounding landscape character and the scale of the landscape, the proposed scale of the turbines would give rise to significant landscape and visual impacts. These could possibly be mitigated by a more sensitive design of the scheme, but this would have to be demonstrated by means of an LVIA which adequately represents the landscape and visual impacts of the scheme.

### **Landscape and Visual Impact**

SNH in their consultation response point out that the visualisations submitted do not comply with their current standards and good practice guidance on windfarm visualisations as specified in SNH guidance. The photomontages provided as part of the viewpoint pack do not adequately illustrate landscape and visual impacts of the scheme. This applies to most viewpoints, as there is a general lack of landscape context, and in particular to the visualisations for close-up viewpoints, where large parts (up to 3 out of 4 turbines) of the scheme are omitted from the visualisations (VP1: Access to Stroness House, VP2: Keillour Castle Goods Entrance, VP3: Glenalmond). Several viewpoints are micro-sited in a way that parts of the scheme are screened (VP1: Access to Stroness House, VP3: Glen Almond, VP5: Grundcrue, VP8: Balgowan).

A number of visualisations were taken in poor visibility conditions and do not adequately demonstrate key landscape and visual impacts (VP15: Auchterarder, VP16: Muthill, VP17: A823 West Park).



In addition the 35km radius -ZTVs submitted are not at the required scale (1:100 000 instead of 1:50 000) and the resolution of the background map is not legible.

Whilst the additional visualisations requested at scoping stage do not follow SNH's most recent guidance for visual representation of wind farms they have been able to undertake an assessment of proposal on the basis of the information provided and on a site visit.

### Landscape Character

TAYplan Policy 3 seeks amongst other things to safeguard landscapes and geodiversity, while TAYplan Policy 6 indicates that in determining proposals for energy development, consideration should be given to landscape sensitivity. Local Development Plan Policy ER1A (1) confirms the need to take account of landscape character with Policy ER6 specifying that development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes. Accordingly, development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross.

Supplementary Guidance on Landscape Character associated with Policy ER6 has recently (June 2015) been approved by Scottish Ministers and has been adopted by the Council. This work looks at the qualities and designation of Special Landscape Areas within Perth and Kinross. The proposed Parks of Keillour windfarm is not located within an identified Special Landscape Area (SLA), however there are numerous SLAs (Glen Almond and Sma'Glen; Upper Strathearn; Ochil Hills; Sidlaw Hills) where according to the ZTV that visibility of the proposed turbines could occur.

Policy ER6 acknowledges that the development proposal needs to be assessed against the Supplementary Guidance on Landscape.

Tayside Landscape Character Assessment 1999 (TLCA) will also be used for assessing the development proposal, along with other material considerations. The assessment will also focus on the David Tyldsley Studies.

### Lowland Hills Landscape Character Type

The proposed site is located within the Lowland Hills as described in SNH's Tayside Landscape Character Assessment (TLCA) 1999 and is just south of a component of the Highland Boundary Fault separating the lowlands of Strathearn; to the south; with the upland landscape of Highland Perthshire; to the north. The TLCA states that the Lowland Hills Character type in relation to capacity for wind energy that "...insensitive development of wind turbines in this area could conflict with the small-scale, historic and deeply rural character of the landscape. It would weaken and confuse the area's role of providing a transition from the unsettled uplands to the fertile and settled lowland."

The David Tyldesley and Associates Landscape Study to inform planning for wind energy (2010) recognises that while this landscape is of low sensitivity but in the context of this application however, it is worth noting that for the 6 *Lowland Hills 6(v) Keillour ridge/Methven Hills area (within the general Zone E – Lowland Hills and Strathearn)*, where the development would be situated, the study does not indicate capacity for turbines of the proposed size. Capacity is stated for the Small Wind farm Type, defined as a development composed of 8-12 turbines of up to 100m.

The proposed development is for 4 turbines of 125m turbine tip height is a medium wind farm proposal with turbine of the height higher than much of the of large scale commercial windfarm schemes already in existence in Perthshire. The study did not identify potential for this scale of wind energy development here. The reason for this is evident from the assessment of landscape and visual impacts of this proposal and the height of the turbines are significant to its potential impacts.

The site would be on the Keillour ridge which gently rises up to the north of the open agricultural landscape of Strathearn. The landform rises by around 150m from the adjacent lower ground and forms a topographical transition between the low open Strath and the Highland Boundary Fault which forms the characteristic northern landscape backdrop to Strathearn. Both, the ridge and the backdrop of the Highland Boundary fault are widely visible across Strathearn.

SNH advise that the proposal would be out of scale with the landscape context of the Lowland Hills Landscape (6) Character Type in which the development would be situated, and the adjacent Broadvalley Lowlands (10) Landscape Character Type (as defined in the Tayside Landscape Character Assessment, by SNH and Land Use Consultants, 1999), where it would be widely seen. Both landscape character types are settled lowland landscapes, characterised by fields, hedgerows, arable and pasture land uses, creating a smaller scale pattern with many human scale-indicators. In distant and closer views the turbines would appear visually dominant and overwhelming compared to the many scale indicators and intricate texture of the rural landscape.

It is considered that the proposal is not in accordance with TAYplan Policy 6, and the Perth and Kinross Local Development Plan policies ER1 or ER6 and in particular points ER1 (a) and ER6 (a and b) and will erode the local distinctiveness of this area of Strathearn.

## Highland Summits and Plateaux Landscape Character Type

Strategic Planning and Policy consider that there will be a significant visual impact from the nearby Highland Summits and Plateaux Landscape Character Area and from within the Highland Boundary Fault itself.

This landscape unit comprises a large part of the TLCA study area covering the higher ground located to the North of the Highland Boundary Fault and is described as one of the remotest and wildest in the United Kingdom. The TLCA confirms within Highland Summits and Plateaux type there is a distinction and this can be drawn through the Glen Garry/Drumochter which effectively dissects the Mounth Highlands which are rounded in nature to the east, in comparison to the craggier hilltops of the Western Highlands. The proposed site is located south of the latter.

The Highland Summits and Plateaux landscape type generally has a high/medium sensitivity to change of the type associated with wind farm development. The assessment in the ES acknowledges that it is a very sensitive landscape and the impact of the proposal on its sensitivity is considered to be medium and overall the effect on the Highland Summits and Plateaux landscape character area will be slight and not significant.

SNH advise that due to their large scale and elevated location, the turbines would become a prominent landmark and would be widely visible within the landscape of Strathearn. Often the turbines would be seen against the landscape backdrop of the Highland Boundary fault and against the skyline. They would create a dominant landscape feature that would detract from and have adverse scale effects on the landscape character and the backdrop of the Highland Boundary Fault. These adverse effects would be widely spread and affect views from across Strathearn when looking north, as well as from some of the adjacent areas such as the Ochills and the Highland Foothills. These include views from settlements and key transport routes such as the A9, A85, and popular amenity routes A823 and A822.

I do not agree with the findings contained in the ES on this Landscape Character Type which states that a number of the viewpoints to the south of the proposal and that the HBF is largely screened by woodland with only the summits and plateau visible. It is considered that poor quality photographs within the ES underplays the impact on the HBF from Balgowan (viewpoint 8), St David's (viewpoint 9), Tibbermore (viewpoint 10) and from the A9 (viewpoint 12) where more of the HBF is likely to be visible and because of the height of the proposal on an uninterrupted landscape would cause a visual disturbance and ultimately adversely impact the landmark quality of the Highland Boundary Fault.

## Special Landscape Areas (SLA)

The proposed Parks of Keillour windfarm is not located within an identified Special Landscape Area (SLA), however there are four SLAs (Almond and

Sma'Glen; Upper Strathearn, Ochil Hills, Sidlaw Hills) where according to the ZTV that visibility of the proposed turbines could occur.

#### Glen Almond and Sma'Glen SLA

Viewpoint 7 (Buchanty) is on the border of this SLA and would appear to show all four turbine heads and blades being visible above a ridge line on the landscape with just the sky providing a visual backdrop. The ZTV shows there may be other areas within the Sma'Glen that visibility of the turbines could occur and given its landscape status and that it's a very popular tourist route in Perthshire, the potential visual impact on this SLA is considered to be reasonably significant.

#### Upper Strathearn SLA

Viewpoint 11 (Knock Crieff) confirms that the proposed turbines will unlikely to be visible but Viewpoint 16 Muthill confirms that four turbine hubs and all blades of Parks of Keillour would be visible along a ridge line and are considered to be eye catching and prominent. The viewpoints underplay the visual impact as the photograph would appear to have been taken in very hazy conditions. All 4 turbines clearly visible running along ridge line and is considered to be out of scale with surrounding rural landscape. The visual impact is considered to be reasonably significant.

#### Ochil Hill SLA

Viewpoint 21 (Ben Cleuch) shows that all four turbines could be visible and will occupy a view of the landscape that remains unspoilt from large scale windfarm development. SNH consider that due to their large scale and elevated location, the turbines would be seen against the landscape backdrop of the Highland Boundary fault. They would create a dominant landscape feature that would detract from and have adverse scale effects on the landscape character and the backdrop of the Highland Boundary Fault.

#### Sidlaw Hills SLA

Viewpoints 18 (Kinnoull Hill) and 20 (A94 near Balbeggie) also shows that all four turbines could be visible and will occupy a view of the landscape that remains unspoilt from large scale windfarm development. The turbines would also be seen against the landscape backdrop of the Highland Boundary fault. They would create a dominant landscape feature that would detract from and have adverse scale effects on the landscape character and the backdrop of the Highland Boundary Fault.

Based on the Council's Supplementary Guidance on landscape areas 2015 and the TLCA, the impact on landscape character would not accord with the requirements of TAYplan Policy 3 or Policy 6. Furthermore the proposal does not comply with LDP Policy ER1A (1) or Policy ER6 specifying that development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscapes. Accordingly, development proposal conflicts with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross.

## Visual Impact

There is also a requirement through LDP Policy ER1A to take account of visual integrity. Accordingly the potential visual impact in relation to residential properties, designated locations, roads, recreation and sporting activities has to be considered.

## National Scenic Areas

A National Scenic Areas (NSA) is an area which is nationally important for its scenic quality. Development that affects a NSA should only be permitted where it will not adversely affect the integrity of the area or the qualities for which it has been designated, or any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance. There are two NSAs within the 25km LVIA study area, River Earn NSA (Comrie to St Fillans) and the River Tay NSA (Dunkeld).

The submitted ZTV confirms that there is almost no visibility from the River Tay NSA other than the upper part of one blade tip. Therefore I would agree with the ES that the impact would be none.

There is limited (fragments on remote hilltops) theoretical visibility from within the River Earn NSA and I would agree with the ES that the impact would be slight at most and therefore not significant.

## National Parks

National Parks are designated under the National Parks (Scotland) Act 2000 because they are areas of national importance for their natural and cultural heritage. The four aims of national parks are to, conserve and enhance the natural and cultural heritage of the area, promote sustainable use of the natural resources of the area, promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public, and promote sustainable economic and social development of the area's communities.

The Loch Lomond and the Trossachs National Park is located 25km west perimeter of the 35km study area. In this case limited visibility of the proposed wind farm occurs. Viewpoint 22 shows some limited visibility from Ben Vorlich and this would be slight and not significant. Overall the special qualities of the Park should not be adversely affected. Additionally no objection was received from Loch Lomond and Trossachs National Park Authority regarding the application.

## Roads

Perthshire forms the main "gateway" for tourists entering the highlands, with the A9 north of Perth the A822 north of Greenloaning, the A823 north west of Auchterarder and the A85 west of Perth forms much of the main tourist routes in Perthshire and in particular the Strathearn area. Volume 7 (Viewpoint Pack)

of the ES confirms there will be significant visibility of the proposed turbines from the A9, the A85 between Methven and Crieff and the A822 at Muthill and the A823 between Auchterarder and Crieff

Static viewpoint 16, A822 near Muthill and viewpoint 17, A823 near Auchterarder represent road users on this section travelling in a northerly direction.

From viewpoint 16 and 17, four turbine hubs and all blades of Parks of Keillour would be visible along a ridge line and are considered to be eye catching and prominent. The viewpoints underplay the visual impact as the photograph would appear to have been taken in very hazy conditions. All 4 turbines clearly visible running along ridge line and is considered to be out of scale with surrounding rural landscape. I am of the view that the level of effect is more than insignificant as has been stated in the ES. The visual impact is considered to be reasonably significant.

Near Craigend (viewpoint 4) there is theoretical visibility on the A85. Viewpoint 4 is taken from the roadside and the effect on road users is likely to moderate for those travelling west along the A85. At this point four turbine hubs and all blades will be the prominent above nearby woodland area and will be visually intrusive and distracting to motorists.

Overall the effect on this section of the A85 route is considered to be significant. The ES considers there is a moderate impact at this location but has downplayed its impact by stating no walking or cycling is likely to occur in this area. I do not share this view and consider the effect on motorists will be significant from this viewpoint.

From viewpoint 12 (A9) all four turbines will be clearly visible on the landscape and is considered to be out of scale with the immediate surrounding landscape. The distant hills to the north west help soften the impact a bit but the visual disturbance due to the scale of the turbines is still considered to be significant and potentially distracting to drivers on this busy trunk road especially those travelling southwards towards Stirling.

It is considered that a significant effect occurs from this viewpoint and not as slight as the ES suggests although it would appear to have referred to viewpoint 13 (Dunning) by mistake.

Taking the above into account, receptors travelling in an northerly and westerly direction on parts of the A822, A823, A85 and A9 will likely gain significant views of the windfarm and appear dominant along a ridge line and out of scale with the surrounding area. The turbines would be in the receptors view on a relatively open landscape. This is considered to be a major and significant impact on this view. As a consequence, the proposal is considered to have a detrimental effect for road travellers along important tourist routes in the area.

## Residential Receptors

Paragraph 190 of SPP 2014 refers to a guideline separation distance of up to 2km between areas of search for groups of wind turbines and the edge of towns, cities and villages, to reduce visual impact. However, this 2km separation distance is a guide not a rule and decisions on individual developments should take into account specific local circumstances and geography. The applicant has submitted a residential assessment with the ES and included properties within 2km and 2-km

## Settlements

With regards to settlements, the settlements of Harrietfield, Balgowan and Methven are located within 5km of the turbines. From Harrietfield which is 3.2km north from the windfarm there will be four turbines visible. From a site visit the orientation of dwellings along the road are primarily south facing and the effect on this small settlement is significant, accordingly I agree with the ES that there will be substantial/moderate impact on the settlement of Harrietfield.

From the housing settlement of Balgowan, 4.2km south of the windfarm, all four turbines will be visible above the surrounding forest. Viewpoint 8 slightly underplays the visual impact as there is one deciduous tree in the immediate foreground that totally obscures one of the turbines. At time of site visit and without any foliage over the late Autumn to Spring period all 4 turbines will be clearly visible and quite significant to most residential properties in Balgowan. The ES acknowledges there would be significant/moderate visual impact for residents in Balgowan.

The village of Methven experiences no visibility of the turbines and do not raise significant effects.

Within 10km of the site the ZTV indicates the theoretical visibility of the turbine from the settlements of Dunning (Viewpoint 13), Auchterarder (Viewpoint 15), Muthill (Viewpoint 16).

Viewpoint 13 Dunning: All 4 turbine heads and blades will be visible from this residential receptor. The forest area immediately north of turbines will help soften some of the visual impact. However this forest area is owned by the Forestry Commission so may be subject to felling and clearance in the future. Without the trees the visual impact will be more significant. Whilst the distant hills provide some background framing I am concerned about the visual disturbance it will introduce onto this rural landscape.

Viewpoint 15 Castleton Road Auchterarder: The viewpoint underplays the visual impact as the photograph shows very hazy conditions. However all 4 turbines clearly visible running along a ridge line and is clearly out of scale with the surrounding landscape. Because of the hazy conditions it's not clear



from what impact (if any) the distant hills will have in terms of softening the visual impact.

VP16 Muthill: As with viewpoint 15 this viewpoint also underplays the visual impact as the photograph shows very hazy conditions. However all 4 turbines are clearly visible running along ridge line and is out of scale with the surrounding landscape and there does not appear to be any hills in the background to help frame it.

Based on the above assessment and that the ES indicates there will be significant visual impact from these settlements within 5km and 10km. I would agree that the level of visual disturbance from a settlement receptor perspective is too significant to be able to support the application.

### Residential Properties

There are 40 residential properties located within 2km of the proposed windfarm and the ES confirms there will be 15 properties are assessed as having a high potential to experience a high magnitude of change to their visual amenity. There are 6 properties within 1km and 4 of these will have direct views of the turbines

The residential assessment has been undertaken by the applicant concludes that none of the properties assessed will result in an adverse impact on residential amenity or living conditions. The ES does not appear to recommend an acceptable separation distance between the proposed windfarm and nearest property.

I am in no doubt that the presence of the proposed windfarm will be experienced by the residents in the course of their daily life, most notably from gardens and driveways where visibility occurs and will be to a level that would be substantially detrimental to the enjoyment of the properties.

Overall the effect on residential amenity of properties within 2km is considered to be is substantial and detrimental to a level which warrants refusal. Accordingly the proposal is considered to be contrary to criterion (a) of LDP Policy ER1.

### **Cumulative Impact**

The approval and construction of the Calliachar and Griffin wind farms has introduced considerable wind farm development into Highland Perthshire to the north of Parks of Keillour. Braes of Doune wind farm lies at some distance to the southwest in the administrative area of Stirling and is visible throughout much of central and western Strathearn. Parks of Keillour lies between the developments at Calliachar and Griffin to the north and the wind farms in the Ochil Hills to the south. The acceptability of further landscape change within Perth and Kinross in relation to wind energy development is dependent upon

the appropriate spatial arrangement of separate proposals, their proposed scale and layout and their detailed impacts.

The Cumulative Landscape and Visual Impact Assessment within the ES states that the cumulative effects associated with Parks of Keillour will lead to a low magnitude of change and just mainly affect northerly views.

The ES does not take into account the sensation of being surrounded by wind developments in the landscape. This is demonstrated in the cumulative ZTVs where the visibility of Parks of Keillour combines with Braes of Doune (to the south west), Bunfoot Hill, Greenknowes, Lochelbank (to the south), Griffin (to the north), East Gormack (to the north east) are all potentially visible over extensive areas of Strathearn. The inclusion of Parks of Keillour adds a very conspicuous wind development in views to the north and is potentially visible up to a distance of 35km. This effect is likely to most apparent at the settlements of Auchterarder, Aberuthven, Muthill, Dunning which would be approximately equidistant from Braes of Doune, Burnfoot Hill, and Greenknowes wind farms.

The cumulative assessment appears to discount the existing wind development at Drumderg and Calliacher as they are deemed 'less theoretically visible'. However, it is considered that the extensive visibility of both Drumderg and Calliacher and their location on the eastern section of the HBF mean they should be included in the cumulative assessment. The cumulative effect of wind farms on the landscape character of the HBF and long range views of this important landscape feature should be taken into greater consideration.

Overall, it is considered that Parks of Keillour would "fill the gap" between the windfarms in Highland Perthshire to the North and the Ochil Hill Windfarms to the South resulting in adverse cumulative impacts.

## **Trees**

A number of representations raised the issue of the loss of trees. The ES confirms that there will be minimal tree loss associated with the proposal. Forestry Commission Scotland (FCS) has also confirmed that none of their woodland in close proximity will be affected by the proposal. It is worth noting though that this woodland could be subject to felling and clearance in the future and if this occurs the visibility of the proposal is likely to increase. There were areas of woodland near the site that have recently been felled and therefore it is possible at this location also.

## **Ornithology**

The development site is not statutorily designated at international or national level for ornithological interests. RSPB and SNH have confirmed they are happy with there will be a negligible impact on Red Kites in the area The Councils Biodiversity Officer has not raised any issues in terms of protected species. Therefore there should be no adverse impact on birdlife in the area.

## **Groundwater Dependant Terrestrial Ecosystems**

Groundwater Dependant Terrestrial Ecosystems (GWDTEs), which are types of wetland, are specifically protected under the Water Framework Directive. The initial consultation with SEPA confirmed that they were unable to locate the full Phase 1 Habitat Survey report or map (the first stage of screening for GWDTEs). There are references within the Environmental Statement (ES) to a survey having been undertaken however no additional information is included and objected on the grounds of lack of information relating to impact on wetlands.

Following the submission of further information to SEPA they are satisfied there will be no adverse impact on the wetland ecology (GWDTEs) and as a consequence no longer object to the proposal.

## **Electricity Transmission/Grid Connection.**

The ES advises that the wind farm will connect into the existing grid infrastructure however no exact location has been identified. It is possible that connection is made to the existing 132kV transmission line running through the western part of the site. Grid connection will however be through a separate consenting process.

While it would have been useful to gain an understanding of the grid connection location at this point in time and consider the effects of the infrastructure in this assessment, nevertheless, I accept the Planning Authority will be able to comment and assess the acceptability of the connection scheme in relation to Policy ER1 A(c) under the separate consenting process.

## **Aviation and Telecommunications**

The MOD has been consulted on this application and has no objection subject to conditional control relating to aviation lighting being installed on the turbines. Consultation with NATS also confirms that they have no safeguarding objection to the proposal. The applicant has confirmed in the ES that infra-red/Candela lighting will be fitted on the turbine.

The ES has taken account of the potential conflict with telecommunication interests and none are predicted to be affected. It is also noted that no objection has been received from telecommunication operators.

The applicant has assessed with the ES that there will be no impact on television reception of any domestic properties in the area. However should planning permission be granted it would be prudent to control this by condition should any television reception complaints come forward.

## **Shadow Flicker**

Shadow flicker is caused by a low sun behind the rotating blades of a turbine. The shadow created by the rotating blades can cause alternating light and dark shadows to be cast on roads or nearby premises, including the windows of residences, resulting in distraction and annoyance to the residents.

In this case the ES has shown there are no properties where shadow flicker might have an adverse impact. One property does come close to being affected by shadow flicker but is likely to occur around 4.39am when any occupants are likely to be asleep.

## **Noise**

The planning system has an important role to play in preventing and limiting noise pollution. It has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission. Sound levels in gardens and amenity areas also need to be considered in terms of enabling a reasonable degree of peaceful enjoyment of these spaces for residents and this is an issue that has been raised in letters of representation.

The Noise Impact Assessment within the ES confirmed that wind turbine noise will be under the Scottish Government's guidance for properties in the area. Consultation with the Council's acoustic consultant Dick Bowdler and the Environmental Health Section have not resulted in any issue being expressed.

## **Roads and Access**

The construction period would result in the local community served by the A85 and the site being subject to some inconvenience and disruption. The impact of construction traffic is a concern to residents.

I acknowledge the impact construction traffic can have on the road network and sympathise with the concerns of local residents. However part of the function of the public road is to facilitate approved developments on sites which are served by it. In this case consultation with the Roads Authorities (Transport Scotland and the Council's Transport Planning Section) has been undertaken and neither have objected to the proposal. Conditional control has been recommended and this will assist in minimising the adverse impact on road users. In light of this the development would not conflict with local development plan policy TA1B.

It should be noted that the visual impact/distraction for road users of the A85 has already been assessed in this report.

## **Drainage and Flooding**

No adverse impact on flooding or drainage is predicted in the ES and the Council Flood Risk Officer has confirmed there should be no adverse impact caused by the proposal. However if the application is approved the Councils Flooding Team will require to be consulted on and agree to a detailed drainage management plan in accordance with Chapter 12 of the EIA prior to the start of construction.

## **Cultural Heritage**

Although there will be impacts on the setting of a number of historic environment assets within Historic Scotland's remit they have no objection as proposal does not raise issues of national significance. They consider that the assessment of impacts within the ES has under-appreciated the level of impact of assets but their settings will remain capable of being understood and appreciated.

The Councils Conservation Planner however is concerned about the impact the proposal will have on the category C listed Keillour Castle which is located within the centre of, and consequently screened by, Keillour Castle Garden and Designed Landscape (GDL). No photographic evidence has been provided to demonstrate this and therefore has reservations on the impact of the proposed development to the listed building. He also expressed concern that there will be a moderate to significant visual impact on the Keillour Castle GDL. It is recommended that the viewpoint (2- Keillour Castle Goods Entrance) used should be reconsidered and the highest accessible point of Keillour Castle looking towards the proposed development or a viewpoint from the centre of Keillour Castle Historic Garden and Designed Landscape should have been considered.

## **Developer Contributions**

The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

The applicant does propose to provide a community benefit fund to Glenalmond College, nearby residents, nearby community councils and Perth and Kinross Council. Such funding is outwith the remit of planning process and therefore the Planning Authority has no control over it.

## **Economic Impact**

The economic impact of the proposal is likely to be primarily limited to the construction phase of the development. The economic benefits associated with wind farms are detailed in the applicant's submission. This highlights that the proposal will provide employment opportunities for Scottish and Southern Electricity during the construction phase. During the operational phase local technicians are likely to be required for servicing and maintenance purposes.

It is accepted that the proposed development is likely to represent a reasonable economic opportunity to the local and regional economy.

Securing such economic benefits can be recognised as consistent with key Government and Development Plan objectives for the Scottish economy. However, those same objectives indicate that achieving *sustainable economic growth* in Scotland requires a planning system that can deliver growth enhancing activities in a manner which protects and enhances the quality of the natural and built environment as an asset for that growth. Environmental protection can therefore be seen as a key measure of *sustainable economic growth*. Taking this into account the green energy contribution, pollution reductions and economic benefits of the development have to be balanced against the potential significant adverse effects on local environmental quality. Overall, based on the findings earlier in this assessment the adverse effects on environmental quality are of such a weight to sufficiently warrant refusal of the application.

## **Conclusion**

The assessment above has taken account of the Development Plan and where necessary provided weight to material considerations. This includes information provided in the ES, comments received from consultees and from representations made both in support and in opposition to the proposal.

There are no overriding problems in relation to the natural heritage interests for the area and appropriate noise levels could be secured in line with national guidance. It is acknowledged that the proposal would make a contribution to the provision of energy from renewable resources, with a consequential reduction in CO2 emissions. A small element of economic benefit during construction, operation and decommissioning will occur but these have to be offset against the presence of the turbines. There are considered to be significant and unacceptable adverse landscape and visual impacts from a wide variety of receptors.

The application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. This report recommends refusal of the application for the erection of four turbines and associated infrastructure as the location, prominence and scale of the proposed windfarm has an unacceptable and adverse impact on the immediate landscape character including the nearby Highland Boundary Fault as well as the wider landscape setting. Additionally the turbines will have a significant and unacceptable visual impact on residential, tourist, transport and heritage receptors.

The magnitude of the adverse effects associated with the development are significant and environmentally unacceptable, therefore, the proposal is not considered to comply with the overriding thrust of the Development Plan and there are no material considerations of sufficient weight which would justify departing from the Development Plan. Accordingly the application should be refused.

## **APPLICATION PROCESSING TIME**

The recommendation for this application has been made within the statutory determination period.

## **LEGAL AGREEMENTS**

None required.

## **DIRECTION BY SCOTTISH MINISTERS**

Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **RECOMMENDATION**

**Refuse the application for the reasons following**

### **Reasons for Recommendation**

- 1 The proposal by virtue of the location, dominance, scale and layout of the proposed wind farm would result in unacceptable adverse landscape impacts having regard to landscape character and setting within the immediate landscape and wider landscape character types contrary to Policy 6 of TAYplan and Policies ER1A (a), ER6 (a) (b) of the Perth and Kinross Development Plan.
- 2 The location, dominance, scale and layout of the proposed wind farm, the proposal would result in unacceptable visual impacts. Accordingly the proposal is contrary to Policies ER1A (a), ER6 (a) (b) (c) (f) of the Perth and Kinross Development Plan 2014.
- 3 The proposal by virtue of the location, prominence, scale and layout of the proposed wind farm and its relationship to other wind turbine developments in the area would give rise to unacceptable cumulative landscape and visual impacts. Accordingly the application is contrary to TAYplan Policy 6 and Policies ER1A (a) (h), ER6 (a) (b) (c) of the Perth and Kinross Development Plan 2014.
- 4 The development does not contribute positively, to the quality of the surrounding built and natural environment as the design, siting and scale of the development does not respect the character and amenity of the Strathearn area of Perthshire and is contrary to policy PM1A of the Perth and Kinross Local Development Plan 2014.
- 5 The application is contrary to Perth and Kinross Council's Supplementary Guidance on Landscape June 2015 as the proposed



visual impact will adversely affect the special landscape quality of the designated Special Landscape Areas of Glenalmond and Sma'Glen; Upper Strathearn; Ochil Hills; and Sidlaw Hills.

### **Justification**

The proposal is not considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

### **Informatives**

None

### **Procedural Notes**

Not Applicable.

### **PLANS AND DOCUMENTS RELATING TO THIS DECISION**

15/00445/1

15/00445/2

15/00445/3

15/00445/4

15/00445/5

15/00445/7

**Date of Report 14 July 2015**