Colin Bryans
Planning and Development
Cairngorms National Park Authority

By email: planning@cairngorms.co.uk

30th October 2024

Dear Colin

2024/0179/DET – Erection of 22.5m high telecoms mast, antennae, equipment cabinets, fenced compound and formation of 25m long access track at Land 410M NE of Ryvoan Bothy, Glenmore, Aviemore

Thank you for consulting RSPB Scotland on the Additional Information submitted by the Applicant for the above proposed development, consisting of a Preliminary Ecological Appraisal (PEA), Peatland Survey Assessment and Landscape and Visual Impact Assessment (LVIA).

The Additional Information submitted does not alleviate our significant concerns regarding this proposal. The PEA submitted fails to provide adequate information to enable a full assessment of predicted impacts on species, habitats and designated sites. We note the Landscape Adviser's response (dated 28 August 2024) to the LVIA and their conclusion that the proposal would have significant adverse effects on landscape character of the area and the visual amenity of people who use the Park. They further conclude that a mast in this location is not likely to be suitable on landscape and visual grounds regardless of mitigation or design. We share concerns over visual amenity including the likely impacts on visitors' experience of RSPB Scotland's Abernethy Reserve and consequently people's ability to connect with and experience nature.

RSPB Scotland maintains our objection to this application on the following grounds as per our previous response (dated 25 July 2024):

- **Likely adverse impacts on Capercaillie as a qualifying feature of the Abernethy Forest Special Protection Area (SPA) and the Cairngorms SPA.**
- **Inadequate information and assessment of impacts on species and habitats including qualifying features of the multiple SPA's (including the Cairngorm Massif SPA), Site of Special Scientific Interest's (SSSI's) and Cairngorm Special Area of Conservation and lack of information to inform appropriate assessment.**
- **Impacts on priority species such as Red-throated Diver and Black Grouse**
- **Likely adverse impacts on visitor experience to Abernethy nature reserve.**

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL

Detailed comments on the Additional Information documents can be found within Annex 1, along with brief comments on the CNPA EIA Screening document and Ecology Response.

Please also refer to our original response dated 25 July 2024 for full comments relating to our objection grounds above.

Yours sincerely,

Alison Phillip
RSPB Scotland Conservation Officer – South Highland

RSPB North Scotland
Inverness Office
Etive House, Beechwood Park
Inverness
IV2 3BW

Tel: 01463 715000
Facebook: @RSPBScotland
X: @RSPBScotland
rspb.org.uk/Scotland

The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL

Annex 1 – RSPB Scotland Detailed Comments to Additional Information

Preliminary Ecological Appraisal (PEA)

Inadequate Information and Assessment of Impacts

The PEA submitted fails to provide adequate information to enable a full assessment of likely impacts on species, habitats and designated sites.

As discussed in our previous letter, the Proposed Development would have likely significant effects on European Sites, and the Cairngorms National Park Authority, must carry out an Appropriate Assessment under the Habitat Regulations[1]. Sufficient information must be provided by the Applicant to inform the required Appropriate Assessment. Such adequate information has not been provided.

Section 4.2 (Further Survey, Assessment and Licencing) correctly identifies that a Habitat Regulations Appraisal will be required to determine potential impacts on European Sites. However, sufficient information has not been provided within the PEA or the rest of the application to enable this assessment to happen, and the Applicant is required to provide this.

Sufficient information is also required to allow an assessment of the proposal against relevant policy and guidance, and this has not been provided.

Section 2.1 (Desk Study) of the PEA indicates that despite the proposed development's location on RSPB Scotland's Abernethy reserve no attempt was made to request the data that RSPB Scotland holds on the species present on the reserve. Section 3.6.6 states that '*RSPB shared records of species that have been known to breed in the area*'. We received no official data request from the Applicant/consultants, and we are not sure what this refers to other than perhaps an informal conversation on site with the ecological consultant/site staff which is not adequate to inform a desk study. The information presented within our response dated 25th July 2024 also does not seem to have been taken into account in the Additional Information submission.

Section 2.2.6 indicates that 'observations of birds were noted during the survey'. However, we understand that this was based on a one day survey in August which is not sufficient to provide a reliable assessment of birds in the area.

The PEA fails to identify Capercaillie as a species that will potentially be impacted by the development proposal, despite the fact the proposal is located adjacent to and between two SPA's and SSSI's designated for their Capercaillie interest, and RSPB highlighting potential for significant impacts on Capercaillie in our previous response dated 25th July 2024.

[1] The Conservation (Natural Habitats, &c) Regulations 1994 https://www.legislation.gov.uk/uksi/1994/2716/contents

RSPB North Scotland
Inverness Office
Etive House, Beechwood Park
Inverness
IV2 3BW

Tel: 01463 715000
Facebook: @RSPBScotland
X: @RSPBScotland
rspb.org.uk/Scotland

The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL

Section 4.1 of the PEA identifies that Black Grouse could collide with the proposed fencing around the proposal but does not acknowledge that Capercaillie will also be at risk or identify the collision risk from the proposed mast structure itself for Black Grouse and Capercaillie, two species that are particularly susceptible to collisions. Research[2] indicates that both black grouse and Capercaillie are in particular susceptible to collisions with the towers of wind farms rather than the blades. This indicates that the mast itself would introduce significant collision risk as it is close to black grouse leks and within a likely travel corridor for Capercaillie between two Capercaillie SPAs.

The Ecology Report also fails to assess any potential impacts from associated infrastructure in the form of a grid connection which is likely required and any necessary track upgrades on designated sites. Section 3.1.1 (Statutory Designated Sites) suggests that '*due to the scale and nature of the proposed development, there is not considered to be any impact pathway for habitats outside the footprint of the development'.* For an accurate assessment of impacts as a result of the proposed development any associated infrastructure/necessary track upgrades need to be taken into account.

There has been no assessment of potential impacts of pollution from the proposed development (including either construction or operational impacts) on designated sites or priority habitats. Designated features of the Cairngorms SAC, including 'acid peat-stained lochs and pools' and 'clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels', as well as their associated designated species and assemblages are present 'downstream' to the east of the development, with a potential pathway down the proposed new access track and onto the existing track.

In summary, the Preliminary Ecological Appraisal does not provide sufficient information required to enable a full assessment of the likely impacts of the development on habitat, species and designated sites.

<u>Inaccurate Information</u>

The report mistakenly identifies Black Grouse as a schedule 1 species (section 3.6.6) – Black Grouse are a red-listed species which has undergone significant declines, but it is not Schedule 1.

Water voles were removed from the assessment '*due to the absence of records and the unsuitable habitat on site, and within the surrounding area* (section 2.2). Reserve staff have recorded the presence of Water voles (and therefore suitable habitat) within close proximity to the proposed development and this species should have been included within the assessment.

[2] Coppes et al, 2020. The impact of wind energy facilities on grouse: a systematic review. Journal of Ornithology 161:1-15.

RSPB North Scotland
Inverness Office
Etive House, Beechwood Park
Inverness
IV2 3BW

Tel: 01463 715000
Facebook: @RSPBScotland
X: @RSPBScotland
rspb.org.uk/Scotland

The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL

Mitigation and Biodiversity Enhancements

As the potential impacts of the Proposed Development have not been fully assessed (in particular collision risk), it is not possible to identify if sufficient mitigation and or compensation measures are possible. However, from the information that is available at this stage, some of the proposed mitigation measures that have been proposed by the Applicant would not seem to be sufficient. For example, section 4.1 suggests there is potential for disturbance of schedule 1 bird species during construction and operation, but no appropriate mitigation has been identified to avoid disturbance during the operational phase. Screening in the form of tree-planting is likely to take years to grow tall enough to screen the infrastructure.

The mitigation hierarchy should be followed, and until the full impacts of the developments have been assessed, it is not possible to identify if biodiversity enhancement measures (as required by NPF4 Policy 3) are suitable.

Peatland Assessment

The Ecology Report (section 3.3.1) clearly identifies the vegetation community within the proposed site boundary as M17 blanket bog which is an Annex 1 habitat. The report states that '*the blanket bog is in a near natural state with no signs of artificial drainage or recent burning*'. This peatland habitat is considered to be of international importance and is particularly important as it is in good condition. As such, should the proposed development be granted permission, it should be micro-sited to avoid areas of deep peat.

The Peatland Assessment classes 0.5-1.0m to be shallow peat, with anything over this considered to be deep peat. We disagree with this classification – peat deeper than 0.5m is considered by NatureScot to be deep peat[3], and there is increasing international consensus around a depth of 30cm where active peat forming processes can take place. As such we consider that a minimum of 30% of the locations probed within the development footprint were deep peat.

The Peatland Assessment has not taken into account the likely need for a grid connection to the mast, or any potential requirements for track upgrades. This means that impacts on peatland as a result of the proposed development have not been fully assessed.

Landscape Appraisal (LVIA)

We note the CNPA landscape advisor's assessment of the LVIA, and their expert opinion that likely effects resulting from the Proposed Development have been significantly under-estimated. We are very concerned that the proposed development is likely to have detrimental impacts on the visitor experience to RSPB Scotland's Abernethy Reserve and consequently people's ability to connect with and experience nature.

[3] Carbon and Peatland 2016 map | NatureScot

RSPB North Scotland
Inverness Office
Etive House, Beechwood Park
Inverness
IV2 3BW

Tel: 01463 715000
Facebook: @RSPBScotland
X: @RSPBScotland
rspb.org.uk/Scotland

The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL

EIA Screening Document

We note that CNPA provided an Environmental Impact Assessment Screening Opinion stating that the Proposed Development is not EIA development and therefore EIA is not required. We understand that the threshold for what may be EIA development is largely set out under the EIA regulations and informed based on the size of the development.

Notwithstanding this, the proposed development requires a robust ecological assessment and sufficient information under the Habitat Regulations to inform an Appropriate Assessment which has not been provided.

CNPA Ecology Response

We also would like to highlight that the CNPA Ecology Response dated 10 September 2024 does not clearly identify all the species for which Abernethy SSSI is designated for. Abernethy SSSI is designated for Basin Fen, Beetle Assemblage, Breeding Bird Assemblage, Capercaillie, Crested Tit, Dragonfly assemblage, Fluvial Geomorphology of Scotland, Fungi Assemblage, Invertebrate assemblage, Lichen Assemblage, Native Pinewood, Osprey, Quaternary of Scotland, Raised Bog, Scottish Crossbill, Subalpine Dry Heath and Vascular Plant Assemblage.

Although we appreciate this may have been an unintentional error, we disagree with the suggestion that significance of impacts are considered slight as this conclusion appears to be based on the likely impacts only being on habitat and beetles and failed to consider mobile species such as Capercaillie which are one of the many notified bird species designated as part of the Abernethy SSSI which may be impacted by the development.

RSPB North Scotland
Inverness Office
Etive House, Beechwood Park
Inverness
IV2 3BW

Tel: 01463 715000
Facebook: @RSPBScotland
X: @RSPBScotland
rspb.org.uk/Scotland

The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Chair of Council: Kevin Cox **President:** Dr Amir Khan **Chair, Committee for Scotland:** Dr Vicki Nash **Director, RSPB Scotland:** Anne McCall
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 Registered address: The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL