



## Clatto Landscape Protection Group

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DPEA Appeal Reference Numbers - PPA-250-2125 and PPA-250-2129

### **RESPONSE TO APPEALS FROM GREEN CAT RENEWABLES AND WEST COAST ENERGY**

#### **SECTION 1 - INTRODUCTION**

Fife Council refused planning permission for planning applications 10/01469 for three wind turbines each 100 metres tall from Green Cat Renewables and 10/02183 for seven wind turbines each 121 metres tall from West Coast Energy.

Clatto Landscape Protection Group (CLPG) is a properly constituted voluntary organisation with a membership of people living on and around the Clatto Hill area between Kennoway and Cupar. Membership is motivated by a concern to maintain the quality of the area for its landscape and as a place in which to live and a place worthy of the attention of its many visitors. While CLPG did not set out to be representatives of the local community in the strictest sense, it has become clear during the process of consideration of both wind farm proposals that CLPG is being relied upon by the local community to articulate its opposition to both proposals.

CLPG objected to both applications. Following the subsequent lodging of appeals by both applicants, CLPG now submits this document to summarise key reasons for sustaining those objections and for supporting the Council's decisions to refuse planning permission. This document also contains CLPG's response to the reasons offered by both appellants for seeking that their appeals be upheld.

It is the clear submission of CLPG that consideration of these appeals should be conjoined as they are on adjoining sites and raise the same significant adverse impacts and planning policy issues.

With regard to both proposals, it is CLPG's view that their industrial nature and scale is wholly inappropriate to such a locally highly valued landscape and rural residential location. In addition, it is considered that both proposals, which are clearly contrary to policy as set out later in this submission, would seriously diminish the attraction of the area for outdoor recreation by local people and visitors alike. In contrast to the aspiration expressed in paragraph 257 of Scottish Planning Policy (SPP) to maintain and create places in which people want to live, work and spend time, each proposal on its own, and both together, would seriously diminish the locality as a pleasant and desirable place in which to live or to visit, and would create a place in which most people would prefer not to spend time.

It is not in dispute by any party to the cases that the turbines of either proposal would be highly visible nearby and all over North East Fife. Both appellants attempt to persuade decision makers that the turbines would often be screened by vegetation and topography. CLPG submits that, on the evidence, their claims are highly exaggerated and take no account of the temporary nature of the mature commercial tree plantations which partially screen from some locations, in many cases intermittently, and which in any case are not within the control of the appellants.

Both appellants seek to understate the magnitude of change to the landscape from their proposals and the sensitivity to change arising from turbine visibility at close quarters to a significant local population. Where significant impacts to local people are grudgingly acknowledged, they seek to have the Reporter discount the significance of that reality. Overall, both appellants ignore the recurring concerns of guidance for this landscape character type in terms of impacts from tall structures in prominent locations with impacts on distinctive skylines.

In their EIAs and appeal statements, both appellants understate significant adverse impacts and fail to apply, objectively, key national and local policy tests and guidance to assessment of the real impacts of their proposals. In the case of the Green Cat Renewables application, the EIA was so fundamentally inadequate that CLPG could not understand why the application was not refused on grounds of its inadequacy for the purposes of decision making. In the case of West Coast Energy's EIA, its inaccuracies and omissions, identified by CLPG and others, underline the difficulty of making decisions based upon it.

Although CLPG concurs with the refusal decisions eventually made by Fife Council, serious concerns about the handling of the applications led the Group to make formal complaints, particularly with regard to inadequate assessment of visual impact, clear application of the appropriate policy tests and misuse of landscape area of search criteria. CLPG appreciates that this aspect is of no direct concern of the Reporter, but it is worthy of note in the passing that CLPG's complaint is now being prepared for a submission to the Local Government Ombudsman.

In Section 2 of this submission, CLPG offers a summary of evidence with reference to policy and guidance, which, it is submitted, justifies the dismissal of both appeals.

In Sections 3 and 4, CLPG makes specific reference to key sections in the appellants' appeal statements where the case advanced becomes unsustainable and for practical purposes, irrelevant in planning terms.

In Section 5, supported by an appended map, CLPG lists routes and locations to include in the Reporter's site visit.

## **SECTION 2 – THE CASE FOR DISMISSAL OF BOTH APPEALS**

### **Landscape Impact**

#### **Location**

The Clatto Hill area is part of a gentle ridge running approximately east-west between the Lomonds and Largo Law (only slightly higher than Clatto Hill itself). The turbines are proposed on (Green Cat) and close to (West Coast Energy) this ridge.

From a visibility standpoint, these are poor locational choices; they could hardly be more prominent. But it would appear that the locations have been chosen primarily because the relevant landowners want turbines on their land to provide some expansion of their incomes, not because the locations meet policy requirements.

#### **Visibility**

The respective appellants' maps recording zones of theoretical visibility show the high numbers of turbines visibility in the locality and throughout much of North East Fife.

At middle and longer distances, there is no topographical variation which would reduce this visibility apart from the steep sided craggy edge running just south of Kingskettle north-easterly towards Cupar. This has the effect of screening the villages of Kingskettle, Balmalcolm and Pitlessie from turbine visibility.

At near distances, there is no more than 30 metres variation in elevation around the proposed turbine sites and there is little screening effect due to topography at these near distances.

From locations where commercial tree plantation comes close to roads, trees do sometimes screen turbines from view. Both appellants have failed to acknowledge that those trees are temporary and in the majority of cases are in mature forests ready for felling as soon as commercial conditions are favourable and are not in any case in the control of the appellants. Even with replanting what screening effect there is currently would be very slow to return.

### **Scale**

In the Green Cat case, 100m tall turbines would sit on land about 170m above the large areas of low ground in the Howe of Fife and the coastal area between Clatto Hill and the Firth of Forth (about 50m AOD). In the West Coast energy case, the 121m turbines would sit around 150m above this lower ground.

Scale indicators include 40m tall pylons and 15m tall trees. They serve only to emphasise rather than mitigate the extent to which the proposed turbines of 100m/121m are out of scale in this location. There is no backclothing of either development from any viewpoints to mitigate this extremely large vertical scale in this location. The turbines would therefore be prominent skyline features from most viewpoints.

From distances of 10 km or more, the turbines would form a new feature in expansive views. But from distances of 5 kilometres, or less, the turbines would be dominant features in many views. CLPG does not base this view on examination of applicants' photomontages in isolation. CLPG has visited existing windfarms with similarly sized turbines and examined perceptions of size and dominance at different distances.

## **Perceptions of the Landscape**

It is acknowledged that the current AGLV status is about to be removed and that no special landscape status is to be conferred on the local area. However, CLPG would defy any fair minded person to conclude that the local landscape is any less attractive, particularly when close to the area or in it, than other parts of Fife about to be given SLA status. Whatever the position with official designations, the Reporter should be in no doubt that the local landscape is very highly valued by the people who live in it and near it as well as its many visitors. Local people and regular visitors have a feeling for this landscape which a casual one-time visitor may not immediately appreciate. The character of the landscape accentuates the subtle, peaceful tranquillity which can be experienced in it. Planning policy supports development restraint in such areas and NPF2 recognises that all landscapes, not just designated landscapes, are valued.

No attempt was made by either appellant to ascertain how the local community and visitors value this landscape. Nor did ASH Design assess this when they categorised landscape capacity for areas of search in a Study for Fife Council.

## **Planning Policies and Guidance**

There is a considerable weight of policy and guidance with which the proposals are in conflict.

SPP (Feb 2010) (paragraph 187) requires the design and location of any windfarm to “reflect the scale and character of the landscape”. That paragraph also requires consideration of location “to ensure” that landscape impact is minimised. For these two proposals, the prominence of location combined with the size of turbines chosen clearly fails this test.

Fife Council’s Cupar and Howe of Fife Local Plan 2003 at policy COU19 and the Finalised St Andrews and East Fife Local Plan 2009 at equivalent policy I1 express conditional support for

renewable energy developments, on their being no significant adverse effects on the natural environment. SNH, in their consultation response, noted that the proposals would represent a “fundamental change” to the landscape. CLPG believe that this “fundamental change” would be clearly significant and adverse at distances around 5 km and closer from the sites.

Other Local Plan policies, not specific to wind energy, underline concern for scale, such as BE3 of the Cupar and Howe of Fife Local Plan and its equivalent E4 of the Finalised St Andrews and East Fife Local Plan, both of which require new development to be well thought out in terms of scale.

Fife Council’s Supplementary Planning Guidance - Wind Energy June 2011 at Figure 3 in paragraph 5.3.1 identifies categories of landscape capacity for wind turbines deriving from a study and report by ASH Design in 2006. The relevant designation for the landscape character type of which the Clatto Hill area forms part is “some capacity” for 1 – 5 turbines, 50m to 100m tall. Many have criticised the ASH Study, including West Coast Energy. CLPG's criticism is essentially that the range of factors which led to the derivation of the landscape capacity banding for each landscape character type were unclear. However, a constantly recurring theme in the ASH Report was prominence. ASH did make clear that their work was not a substitute for full assessment of proposals on a site by site basis. CLPG's point with regard to ASH and landscape capacity bandings is that prominence appears frequently as an important factor in the capacity of a landscape to receive wind turbines, and that prominence is a severely limiting factor in both appeal sites.

In the Green Cat case, their turbine height proposals are at the ASH limit for this LCT, treating this upper limit as automatically applicable. This completely ignores the actual prominence of the turbines in their proposal. In the case of West Coast Energy, they were clearly aware of the upper limits to the landscape capacity range and they have sought to justify going well beyond it, again despite the prominence of their turbines due to height and actual location. It is also interesting to note that ASH Design concluded that there were no landscape character types

able to accommodate even one turbine in excess of 100m height anywhere in Fife, let alone a wind farm of seven turbines at this excessive height.

CLPG would also like to draw the Reporter's attention to proposal WE1 of the Fife Supplementary Planning Guidance which seeks to review landscape capacity when the SPG is next reviewed. Fife Council decided in June 2012 to review the SPG, specifically including the role of the ASH Design findings in that review.

At paragraph 6.2.3 of the Supplementary Planning Guidance, Fife Council's expectation is that "best practice guidance published by SNH should be adhered to."

In "Siting and Designing Windfarms in the Landscape", (SNH 2009), paragraph 4.28 identifies the critical importance of skylines and the way a viewer's eye is naturally drawn to them. Both proposals would result in new prominent skyline features in the landscape. SNH, in the same paragraph, recognises that the character of a skyline may be particularly valued if it forms the backdrop to a settlement. The settlements of Burnturk/Kettlehill, Bonnybank and Star of Markinch are particularly affected in this way. People living in the many dispersed dwellings in the local area would be affected in the same way as those living in those villages.

Paragraph 4.29 of the same SNH Guidance suggests that windfarm design "should **ensure** (emphasis added) a windfarm does not detract from the character of a distinctive skyline." The Fife Landscape Character Assessment describes the LCT in which these proposals sit as one having distinctive skylines. The proposals sites form part of the main distinctive skyline in this particular LCT, as confirmed in SNH's consultation response dated 10 September 2010.

With regard to vertical scale, paragraph 4.33 of the same SNH Guidance states that "... development will need to **ensure** (emphasis added) that the windfarm in relation to the following aspects is of minor vertical scale in relation to the key features of the landscape (typically less than one third) ...". Both proposals clearly fail this critical test.



Paragraph 4.5 of the SNH Guidance explains that trees may act as a scale indicator accentuating turbine size in comparison. Neither appellant has acknowledged this point.

From the above it can safely be concluded that the expectations of Fife Council's SPG with regard to adherence to SNH Guidance are not met by either proposal.

Similar concerns are reflected in the development advice available in the Fife Landscape Character Assessment (FLCA) with regard to this landscape character type. The FLCA is cited as a material consideration in Fife Council Structure Plan Policy R1 on wind energy. The following five quotations from Section D4 clarify the aforesaid concerns:

“the very distinctive, recognisable and prominent hill tops, peaks and skylines should be left free from all forms of development, to maintain the distinctive character.”

“Any proposal on the upper and middle slopes should be subject to special scrutiny to ensure that that it would not detract from the generally open nature of the slopes.”

“Restrict the development of tall structures to those absolutely essential for operational reasons and avoid any new installations of masts, wind turbine generators or other tall or industrial like structures on all the distinctive, recognisable and prominent hill tops, peaks and skylines.”

“Where possible, encourage masts and other tall structures to achieve backclothing ... so that skyline features are minimised.”

“Explore the potential to steer windfarm developments away from exposed and steep ridgelines and summits and from locations where their vertical influence.”

**Neither proposal complies with any of this development guidance.**

There is a consistent thread of concern running through policy, guidance and development advice indicating the relevance of prominence and impact on skylines and both aspects are germane to this landscape character type. The vertical scale and location of both proposals are in direct conflict with this thread of concern.

**Visual Impact****Where People Live**

CLPG's understanding of the term "visual impact" relates to who would see what from where and with what impact.

CLPG's concern is for local residents, people who live in settlements out to around 5 or 6 km from the proposals, visitors, and for recreational users of the area.

In the case of the Green Cat proposal, there would be 10 homes within 1 km, 41 homes within 2 km and approximately 250 homes within 3 km of proposed turbine locations.

In the case of the West Coast Energy proposal, there would be 19 homes within 1 km, 114 homes within 2 km and an estimated 1,300 homes within 3 km of proposed turbine locations. The latter large number arises from proximity to Kennoway. It is acknowledged that for a fair proportion of that number the turbines would not be seen directly from peoples' homes.

There are two maps appended, one for each proposal, showing how dwellings are distributed close to turbine locations.

Neither appellant nor Fife Council has taken the trouble to identify the above numbers and to check and assess the impacts on this distribution of locations.

A majority of people living in close proximity would see the turbines from their homes and or gardens. People who live in this rural area choose it for the type of area it is, typically because they want to spend a great deal of time outdoors in the local environment. So that even where some screening is available to peoples' homes, the experience of living close to the turbines would be one in which the turbines form a dominant and relentless presence changing the experience of living here for the worse in a fundamental way. The area would no longer have the same attraction as a pleasant place in which to live. That is exactly how most people in the local community feel about the threat of the proposed turbines in either scheme.

CLPG believes this to be a clear public interest issue and not just a matter of a few peoples' private views being compromised. These concerns, albeit for a more limited number of households, led to the recent refusal by Ministers of the Spittal Hill windfarm proposal in Caithness following a Public Local Inquiry.

When middle distances from the proposed turbines are considered, say out to 5/6 km, there are many settlements with direct sight of turbine locations. For people living there, CLPG suggests that views of the turbines, given the impact on landscape described earlier, would be significantly adverse, spoiling the landscape setting of their homes, and making them fundamentally less attractive places in which to live.

The main settlements which concern CLPG in this regard are:

Burnturk, Kettlehill, Baintown, Bonnybank, Star of Markinch, Springfield, Leven, Montrave, Freuchie, Windygates, Kennoway, Rameldry, Lundin Links, Craigrothie, Ceres, Markinch, Ladybank, and Largo.

It should also be born in mind that the area out to 5/6 km from the proposed turbine locations contains many farm steadings, small groupings of dwellings and isolated dwellings. The occupiers of all of those dispersed dwellings would be impacted in a similar manner.

It is not in dispute that residents are “high sensitive receptors” when visual impact is being considered. CLPG is drawing attention to a large population potentially adversely affected by proximity to very large turbines proposed for inappropriately prominent locations at inappropriate vertical scales, where skyline views are fundamentally altered with no backclothing to mitigate impacts.

### **Planning Policies and Guidance**

There is a considerable weight of policy and guidance on visual impact with which the proposals are in conflict.

SPP at paragraph 187 requires the location of wind turbines to be chosen to minimise visual impact. That has not been a site selection or project design concern of either applicant, as the rationale for location has had everything to do with landowner motivations and little to do with concerns for landscape and visual impact.

SPP at paragraph 190 describes long term impact on the amenity of communities as a consideration and acknowledges a relationship between proximity and visual impact when areas of search are being identified in development plans or SPG. The location of Burnturk/Kettlehill would suggest that both proposals fall outwith areas of search defined in such a way and the same applies to the location of Baintown and Bonnybank with regard to the West Coast Energy proposal. The applicants have offered nothing to suggest that the locations chosen would have so little impact on those settlements as to overrule this SPG-type area of search criterion.

Policy COU19 of the Cupar and Howe of Fife Local Plan and policy I1 of the Finalised St Andrews and East Fife Local Plan both require the avoidance of significant adverse impacts on local communities for renewable energy developments to earn support. CLPG, reflecting almost unanimous local opinion, suggests that there would be a very considerable detrimental visual impact experienced by a large population out to middle distances from the application sites. For people living close to the sites, the scale of detriment would destroy the attraction of the Clatto Hill area as a pleasant and desirable place to live.

The more broadly based policy E15 of the Finalised St Andrews and East Fife Local Plan requires development in the countryside to be of a nature and scale compatible with surrounding uses. The local area is a rural residential area as well as an area for farming and forestry. Neither proposal, particularly due to scale, is compatible with this surrounding land use.

Another broadly based policy of that Plan, E3, requires new development to make a positive contribution to the quality of place it will create. Given the rural residential land use, industrial scale wind turbines would not make such a positive contribution.

Fife Council's Supplementary Planning Guidance at paragraph 5.2.3 expresses an intent to protect communities from poorly sited and designed wind farm developments. Fife Council in refusing both applications has done this. That policy based approach should be supported, as a matter of law.

### **Noise**

CLPG recognises that the Reporter will be inclined to focus almost exclusively on the impact of turbine noise on nearest dwellings using the assessment method contained in the ETSU-R-97 Regulations. However, CLPG does want to express its scepticism at the myopic approach which this implies, in part because that method is widely believed not to take proper account of wind turbines set in quiet rural locations, in part because it ignores the more recent World Health

Organisation guidance on sleep disturbance and in part because it already implies a balancing exercise which is properly for the planning decision maker to undertake. Moreover, the Onshore Turbines Web based Guidance, of the Scottish Government, on the (unnumbered) sixth page makes it clear that there are a variety of pieces of guidance to be consulted before final conclusions about noise and loss of amenity can be reached. The clear loss of amenity which would be caused by turbine noise must be added to the other significant adverse impacts on local communities to be weighed in the planning balance to be struck.

However, even in the disputed context of ETSU-based assessments, CLPG wishes to draw the Reporter's attention to unreliable background noise measurements on the part of the appellants.

Consonant with their cavalier approach to this development proposal, Green Cat Renewables took only *one* background noise measurement. They claim that was in order to verify measurements made by Scottish Power for a previous planning application. However, this noise measurement bore no resemblance to its Scottish Power equivalent.

Details of this appear in a Report by Dick Bowdler for CLPG – which will already be with the Reporter - in which he was asked to critique the noise section of the Green Cat EIA. Mr. Bowdler stated at paragraph 1.5 of his Report that he was not satisfied that the Green Cat measurement was reliable. CLPG has been unable to establish that this measurement was taken by a suitably qualified and experienced person. At paragraph 1.7, Mr. Bowdler concluded that, if the Scottish Power measurements were applicable, an ETSU 38dB night limit would fail to be met at Clatto Cottages.

West Coast Energy's background noise measurements were also found to be higher than those of Scottish Power at higher wind speeds. Details of this appear in a Report by Dick Bowdler for CLPG in which he was asked to critique the noise section of West Coast Energy's EIA. In paragraph 1.6 of his Report, Mr. Bowdler states that it would be prudent to make an

assessment using Scottish Power measurements as well as those provided by West Coast Energy. In paragraph 1.5 of his Report, he draws attention to measurement locations not complying with ETSU-R-97. For CLPG's part, it viewed with disbelief noise measurement stations being set up at Clatto Cottages and Devon Cottage enclosed by farm gates set in fields full of cattle, which huddled by these gates rubbing and scratching against them and making a noise which would not otherwise be present.

West Coast Energy has acknowledged that ETSU's rules and methodology have not been complied with at Clatto Barns. A claimed financial involvement on the part of the tenant there seemed to them sufficient to discount this fact. CLPG questions this, and submits that the long term future occupancy of this dwelling by whichever occupiers should not be discounted in this way.

In the same Report, at paragraph 1.10, Mr. Bowdler reported that, were Scottish Power noise measurements more representative of the reality, then noise levels at four properties would not comply with ETSU. Those properties are Clatto Cottages (3) and Clatto Barns.

In a third Report for CLPG, Mr. Bowdler considered the cumulative noise impact of both proposals. He found that, using West Coast Energy background noise measurements, three properties would fail the ETSU daytime limit and six would fail the ETSU 38dB night time limit required by Fife Council (paragraph 1.4 of his Report). Should Scottish Power background noise measurements be used, Mr. Bowdler reported that six properties would fail the ETSU day time limit and fourteen fail to meet the ETSU 38dB night time limit required by Fife Council (paragraph 1.5 of his Report).

All three reports from Mr. Bowdler have been lodged separately with the Reporter.

In relation to this important aspect of noise impacts, CLPG strongly disagrees with Fife Council's Officer's handling of the noise assessment of both applications and their cumulative impacts, in respect of

- doing nothing to bring some certainty and reliability into the measurement of background noise,
- accepting uncritically unsatisfactory noise measurement arrangements at stations at Clatto Cottages and Devon Cottage, and
- failing to report to Committee properly on cumulative noise impacts from both developments.

To explain the last of these three points further. No assessment of cumulative noise impacts appeared in Fife's Planning Service reporting to two Area Committees. Councillor criticism led to a short paragraph being hastily added to the subsequent report for the Planning Committee. That paragraph lacked a proper factual account of cumulative noise impacts.

CLPG invites the Reporter to conclude that it would be unsafe to conclude with confidence that noise impacts for either development would fully meet ETSU requirements, and also that the resultant injury to residential and recreational amenity would be so great as to justify refusal.

In evidence presented to the Rossie Farm (Auchermuchty) Public Local Inquiry, Fife Council explained that the ETSU method would allow industrial noise in proximity to residential property that no other form of industrial installation would be allowed to emit. BS4142 would be used to assess the degree of change in the noise environment in the latter cases.

In the three reports for CLPG from Dick Bowdler already quoted, he also reached conclusions on major loss of amenity using the BS 4142 and the other methodology set out in the web based guidance.



For the Green Cat proposal, Mr. Bowdler reported that a major loss of amenity would arise at sixteen properties, judged against Scottish Power background noise measurements.

For the West Coast Energy proposal, he reported that a major loss of amenity would arise at one property with a further eight suffering a significant loss of amenity, judged against either the West Coast Energy, or Scottish Power background noise measurements.

Considering the cumulative position, Mr. Bowdler reported a major loss of amenity at six properties and a further five suffering a significant loss of amenity, judged against West Coast Energy background noise measurements. Judged against Scottish Power background noise measurements, all properties within 1.5 km of turbine locations including the Letham Feus Caravan Park would suffer either a major or significant loss of amenity.

From a noise perspective, the Reporter is invited to conclude that both proposals fail the following Local Plan policy tests – COU19 of the Cupar and Howe of Fife Local Plan and I1 of the Finalised St Andrews and East Fife Local Plan. As already noted, these policies make support for renewable energy developments conditional on avoidance of significant adverse impacts on local communities. As noted earlier, ETSU does not attempt to assess significant adverse impacts on local communities and, therefore, neither appellant has properly addressed this issue.

## **Outdoor Recreation**

### **The Recreational Resource**

The Clatto Hill area is easily accessed from large population centres from all directions as well as by people living within the wider community. The C30 minor road traversing the Hill is the second highest in Fife, bringing people 200 metres above sea level.

Within the area there are several Core Paths – 800, 195, 267 and 377 - as well as many other well-defined roads and tracks that enable people to move around the area given the relatively gentle topography. Core Path 800 goes particularly near the proposed Green Cat turbine locations. Core Path 267, the most important pedestrian link between the northern and southern parts of the area, would run between two lines of turbines were the West Coast Energy development to proceed. Local people supplement the path network by routes along field and forest edges to add variety to walking experiences.

National Cycle Route No.1 linking Lands End to John O’Groats and passing through Edinburgh, Dunfermline, St Andrews and Dundee, comes on to Clatto Hill close to the proposed turbine sites. National Cycle Route 766 linking Kirkcaldy, Glenrothes and Dundee also comes on to Clatto Hill.

The reward for visiting the Clatto Hill area is the experience of a very peaceful, tranquil area of countryside with an intimate atmosphere; a joy to walk, dog-walk, cycle, horse ride or run in. CLPG conducted a census of horses stabled within the immediate Clatto Hill area (2 km radius of proposed turbine sites) and counted 121 seen from public locations. There will be more than that in practice. The area supports its own informal riding group – Burnturk Rural Riders.

Equally, the rewards for visiting the Clatto Hill area include the wide ranging views out to the Sidlaw Hills and Grampians in the north beyond the east most peaks of the Ochils including Norman’s Law, as well as views eastwards to Largo Law, southwards over the Firth of Forth to Bass Rock and Berwick Law and to the Lammermuirs and Pentlands. The area arguably offers the best views available anywhere of the Lomond Hills. Few places in Fife can offer such vistas without the need for a stiff climb on foot. This makes the area ideal for older people as well as families with younger children.

There is a Fife Council Nature Reserve at Clatto Reservoir, a location very close to those of the proposed turbines.

With the emergence of Clatto Community Woodland (CCW), opportunities for voluntary woodland creation and management activity have arisen. CCW has promoted its Gateway Woodland for parties of local school children for outdoor ecology education. This organisation has been poised for sometime to firm up management agreements for two more local woods which would create the opportunity to transform commercial plantations into woods of native species with much greater biodiversity and with enhanced public access. The two wind turbine proposals have been a direct cause of this very positive voluntary initiative having stalled.

The Clatto Hill area is of significant interest in terms of wildlife, notably bird watching. A very large variety of birds can be spotted in the area. These include five species of international conservation importance and a further fourteen species of national conservation importance, as confirmed by the West Coast Energy EIA.

Those who are engaged in activities for which quality of natural environment is an important aspect, such as walking, cycling, horse riding and bird watching, are likely to be sensitive to adverse change in the landscape. The appellants may argue that the presence of industrial scale wind turbines would not detract from the qualities of this varied outdoor recreational resource. All paths available now would continue to be available, etc. This misses the point entirely. The proposed turbines would transform the area from a pleasant and appealing one in which people want to spend time into one in which they would, in all probability, not want to spend time and would avoid. The effect that would likely arise in the view of CLPG is that a valuable recreational resource would be squandered when it cries out for further enhancement. Wind turbines would deter that further enhancement process, probably for at least 25 years, if not for ever.

### **Planning Policies and Guidance**

At paragraph 149, Scottish Planning Policy (SPP) points to the importance of access to good quality open spaces for recreation for their contribution to a healthier Scotland through the

encouraging people to be physically active. It is self evident that such opportunities need expansion, not contraction, to promote a healthier Scotland. Thus SPP requires planning authorities to protect and enhance opportunities for outdoor recreation. CLPG submits that the Fife Council's refusal of both planning applications served this requirement.

The Fife Landscape Character Assessment at Section D4, specifically concerning this landscape character type, advocated encouraging greater provision of informal countryside recreation and access within the foothills, focused on the woodlands and the higher tops with their outstanding views.

The Cupar and Howe of Fife Local Plan, at policy CLR11 seeks the promotion of opportunities to augment and improve the public access network of paths, cycleways and bridlepaths.

The Finalised St Andrews and East Fife Local Plan, at policy C8, explains that Fife Council will seek to maintain and expand the network of routes available to walkers, cyclists and horse riders.

The recreational resources of the Clatto Hill are well used by the local community as well as its many visitors. This would be another aspect of the significant adverse impact on local communities of the proposals. COU19 of the Cupar and Howe of Fife Local Plan and policy I1 of the Finalised St Andrews and East Fife Local Plan make support for renewable energy projects conditional on avoiding such significant adverse impacts.

To summarise, support exists in planning policy and guidance for preserving and enhancing areas such as the Clatto Hill area, already described above as a very valuable resource, for its contribution to a healthier Fife and Scotland.

### **Road Safety**

## **Road Conditions and Possible Driver Distraction**

Fife Council cited road safety concerns in its refusal of the West Coast Energy proposal, but not in the case of the Green Cat proposal. CLPG believes there are road safety concerns to consider for both appeals, primarily through the creation of driver distraction to add to other road safety challenges affecting the C30 minor road over Clatto Hill.

The C30 passes just under a kilometre from the proposed West Coast Energy turbine positions and less than half a kilometre from the proposed Green Cat turbine positions. Compared to anything else which a driver has to consider, the turbines in both proposals would appear as surprisingly large structures, much larger than anything else in the local environment.

The road is very narrow, in most places requiring vehicle slowing or stopping to allow passage in opposite directions. It is winding with many blind summits and bends along its length and is rarely gritted in winter. It carries local residential and farm traffic, the latter including articulated lorries carrying livestock. It also carries service providing traffic, recreational visitors and “rat-run” travel-to-work traffic between Kennoway and Cupar. This means some drivers will know the road very well, while others will not. The road is in frequent use by horse riders.

A survey undertaken by CLPG (lodged with the Reporter separately) found that there were eight separate locations at which turbines would come in to a driver’s view suddenly, five while driving north to south and a further three while driving south to north. The same locations apply to both sets of proposed turbine locations.

It was suggested by Fife Council Transportation officers that drivers would become aware of the existence of the turbines from some distance off, specifically from the A914 coming from Cupar. This they felt would mitigate the surprise of seeing turbines suddenly while traversing the C30. It is acknowledged that this would be the most common point of access to the C30, but those officers are entirely wrong in suggesting that the turbines would be sighted from nearby

sections of the A914. It would appear that the Transportation officers failed to consult the respective ZTV's of the developers. Had they done so, they would have seen clearly that topography screens the turbines from most sections of the A914 from Cupar to its junction with the C30. The section which would be theoretically visible is actually lined by trees screening the turbines. Even where turbines are identified by drivers from some distance off, CLPG suggests that nothing would prepare them for the surprise of their sheer size, as well as being moving objects.

### **Policy and Guidance**

The Council's Supplementary Planning Guidance – Wind Energy, at paragraph 8.5, states,

“For all roads, any potential for visual distraction should be minimised, not by screening but rather by the provision of a clear, continuous view of the wind farm that develops over the maximum possible length of carriageway.”

And also in the same paragraph,

“Sites where the topography, vegetation or buildings might conceal the view of the turbines until the last minute should be avoided as drivers may be distracted suddenly and take their attention from the road and other traffic.”

Neither proposal complies with this requirement. Neither developer even attempted to assess road safety issues on the C30 in their EIAs or appeal statements.

This detriment to road safety constitutes yet another significant adverse impact for local communities that is in conflict with policy COU19 of the Cupar and Howe of Fife Local Plan and policy I1 of the Finalised St Andrews and East Fife Local Plan.

### **ATC Radar at Leuchars (Green Cat proposal)**

The Ministry of Defence has made clear that the proposed scheme from Green Cat Renewables would interfere with ATC radar at Leuchars. Green Cat proposed a mitigation scheme which led the MOD to withdraw its objection. However, in a letter from the MOD to Green Cat dated 15 August 2011, although the MOD withdrew its objection, it then described the scepticism about achieving the proposed mitigation, saying “The MOD is unaware of any such mitigation solution successfully implemented in an aviation and technical environment similar to that of RAF Leuchars.”

The aforesaid MOD letter proposes an imprecise and unenforceable planning condition related to the proposed mitigation about which the MOD is highly sceptical in the first place. This imprecision and unenforceability is at odds with the second paragraph of Circular 4/1998 which sets out criteria to be met in planning conditions. It is axiomatic that in a suspensive condition of this kind the key determinant, which is the Radar Mitigation Scheme, must be defined with a degree of precision which enables the outcome of the appeal, and the delivery of the development, to be predicted with reasonable certainty. Otherwise a potentially unimplementable planning permission subject to this condition could be left, blighting surrounding land and the entire area, for many years. There would be other consequences.

In addition, the MoD requires lighting. That is a material change to the proposed development which will require additional consideration and, probably, additional evidence in respect of the additional loss of amenity.

CLPG will therefore object to this draft condition at any Examination of this appeal (in whatever form) but CLPG writes now to give notice that there is apparently a legal barrier to permission being granted, if that condition is to be attached in the form proposed.

### **SECTION THREE – RESPONSE TO THE GREEN CAT RENEWABLES APPEAL STATEMENT**

This section considers aspects of the Appeal Statement dated June 2012 and submitted by Green Cat Renewables to the DPEA.

### **Fit for Purpose EIA**

At paragraph 2.7 it is claimed that a thorough Environmental Impact Assessment has been carried out. In fundamental respects this is wrong. Indeed, CLPG was surprised that this planning application was not refused on grounds that the EIA provided was not fit for purpose. The reasons for this opinion can be summarised as follows:

- SNH found that the Landscape and Visual Impact Assessment was inadequate as a basis for assessing impacts. This position is detailed in SNH's letter dated 16 September 2010 to Alistair Hamilton, Fife Council. Included in the criticism of approach and method was "no examination of landscape capacity". Indeed it is apparent that the applicant chose 100m tall turbines as they would be at the limit of the range set for this landscape character type in Fife Council Supplementary Guidance area of search criteria, and not based on a capacity assessment. CLPG enquiries with Green Cat Renewables have failed to establish the author of the Green Cat L&VIA and even whether or not the author was suitably qualified.
- No proper assessment of visual impact on local residents was made since the EIA did not even identify them.
- The same SNH letter clarifies that ecology was not properly assessed by Green Cat Renewables and led SNH to object at that stage. Only information from the West Coast Energy ecology section of its EIA led to the subsequent withdrawal of this objection.
- Insufficient and unreliable data was used to assess potential noise impacts, as described earlier in this document. No reliable grounds were established for concluding that local residents would not be significantly affected.
- Road safety issues were not assessed.
- Insufficient information was brought to bear on outdoor recreation matters to establish possible impacts.

When an EIA fails so comprehensively, surely the correct response is either to seek a proper EIA or refuse the planning application. It needs to be stressed at this point that Green Cat



Renewables has not, even now, addressed any of those shortcomings in its EIA. Accordingly it remains deficient, and Regulation 4 of the EIA (S) Regulations will apply. No decision to grant permission for the scheme may be made while the Environmental Information is so deficient

### **Procedural History**

Missing from the Green Cat account of procedural history in section 3 is that they were advised by Fife Council's case officer on 14 September 2011 (email from Chris Smith, case officer to Cedric Gerbier) that, following a meeting within the planning service, refusal would be recommended, on grounds of potential landscape impact. The case officer later advised of a change of mind, even though the actual conclusions of the assessment had not changed. It appears that the case officer was guided by his Senior Management to tolerate the impacts on landscape and visual amenity. The reasons for this complete about turn by Officers are not known.

### **Consultation with the Public**

Paragraph 4.1 notes the scale of objections to the proposal without indicating what consultation took place. Limited attempts were made to provide the public with information, but no actual consultation took place at all. Consultation means listening to views and considering them. There was no evidence of any interest in, let alone consideration given to public concerns about turbine location and size.

### **Fit with National Planning Policy**

Section 6 of the Appeal statement tries to show the Green Cat proposal as fitting well with national and local planning policy and related guidance.

While paragraph 6.14 acknowledges the SPP requirement to minimise landscape and visual impacts, nowhere in section 6 or elsewhere is it acknowledged that no attempt was made to do this.

Paragraph 6.18 touches on Fife Council's reason 3 for refusal which was due to detrimental impact on outdoor recreational resources. The absence of a credible assessment of recreational resources in the area on the part of Green Cat is followed here by their failure to recognise that the Council's refusal decision is consistent with SPP at paragraph 149.

The crucial specific renewable energy policies at local plan level are COU19 of the Cupar and East Fife Local Plan and its equivalent I1 in the St Andrews and East Fife Local Plan. It can be seen clearly in this section that the matter of potential significant adverse impact on local communities is not carefully assessed, it is merely brushed over. In their attempted L&VIA, Green Cat restricted their viewpoint analysis to a very limited 11 viewpoints and only four of these were within 3 km of proposed turbine locations. By this means they attempt to create an impression of little adverse visual impact locally. Their complete failure to identify the number and locations of nearby residential properties constitutes a fundamental gap in their EIA. If a purported assessment utterly fails to identify key sensitive receptors, it cannot possibly assess visual impact on them.

At paragraph 6.39, Green Cat rehearses the reasons in the case officer report to Council committees for the asserted acceptability of visual impact. Two points need to be made here. First, the case officer initially came to an opposite conclusion and was required to change it by senior staff. Views within the service were clearly divided. Second, the reasons offered for acceptability do stand up to scrutiny and do not accord with the evidence, as is now explained.

The first reason – meeting broad area of search criteria – does not of itself demonstrate acceptability of a specific proposal in a specific location. Also, the area of search criteria to which reference is made (ASH Guidelines) concerns only landscape *character*. ASH by its own admission did not consider visual impact at all. So, stating that compliance with ASH landscape character area of search criteria actually says nothing about acceptability of *visual impact* on relevant receptors.

The second reason – absence of any special landscape designation – is also not a reason in itself for concluding acceptability of visual impact.

The third reason – the site not classified by SNH as of regional or national importance – is also not of itself a demonstration of acceptability of visual impact. SNH actually expressed concern about visual impacts locally and asked the planning authority to give weight to them.

The fourth reason – this is quoted in full to gain the full force of its absurdity –

“In terms of site specific assessment, the proposal has been designed and sited so as not to be located on prominent hill tops or peaks, avoid exposed and steep ridges and summits, would follow the predominant natural treeline orientation defined by the surround wooded areas either side of the site and would maximise backclothing provided by the lower level natural landform and existing vegetation.”

The first part of this quote is an allusion to the Fife Landscape Character Assessment. Its development advice includes an expectation that *prominent and distinctive skylines* are avoided in siting. This important point has been conveniently, and CLPG would suggest deliberately, dropped from the allusion. The orientation of the turbines would follow the natural treeline, but it is not clear why that is such a crucial issue. The final point about backclothing is simply completely wrong as a site visit will readily confirm.

Therefore, in this appeal, Green Cat are placing some reliance on the conclusions of a Fife Council planning service report but those conclusions themselves do not stand up to scrutiny. Those conclusions also show another example of the ubiquitous confusion shown by Fife Council’s planning service of landscape character assessment and visual impact assessment. This is an important issue in the complaint lodged by CLPG about the planning service assessment.

At paragraph 6.74 of the Appeal Statement, it is acknowledged that the site has been brought forward because it is within the ownership of a landowner wishing to build wind turbines on it.

The landowner's holding is fairly limited in size, but this does not obviate the need for siting and design considerations to comply with SPP on minimising landscape and visual impact. Neither does it automatically mean that landscape based area of search criteria for a whole landscape character type mean that specific proposals can be accommodated on this particular land holding. In addition it does not mean that guidance on wind turbine location from SNH or in the Fife Landscape Character Assessment can be ignored, and finally, it does not mean that the real significant adverse visual impacts can be brushed aside.

### **Need for the Project**

Section 8 of the Appeal Statement explains how the proposal would be beneficial to the landowner. None of this is denied. CLPG would in general be very supportive of most forms of farm diversification activity which the landowner might contemplate. However, weighed against the harms to the lives of a much larger number of people addressed in this response from CLPG, none of the private benefits to the landowner should take precedence.

### **Appeal Statement Conclusions**

Seven conclusions are drawn in section 9 of the Appeal Statement. CLPG considers that the available evidence supports none of those conclusions.

## **SECTION FOUR – RESPONSE TO THE WEST COAST ENERGY APPEAL STATEMENT**

This section considers aspects of the Appeal Statement dated 4 July 2012 and submitted by West Coast Energy to the DPEA.

### **WCE Appeal Statement – Chapter 1**

Clarity is needed on what proposal is actually the subject of this appeal. At paragraphs 1.12 and 1.13 of their Appeal Statement, West Coast Energy seems to want two alternative schemes to be considered. CLPG believe that, what is being appealed is the original scheme, namely seven turbines of 121 metres high. At no point since this planning application was registered has West

Coast Energy actually formally amended the planning application for seven turbines each 121m tall. Paragraph 1.14 confirms this. They did indicate they would agree to planning conditions to reduce their scheme, while leaving open an option to appeal against the planning conditions, should they be imposed. At this stage, third parties were notified in a letter dated 10 January 2012 from Fife Council's case officer that "further material amendments to this planning application have been made". Thus third parties were wrongly informed. While the Officers' report to Council committees described the original scheme in the heading of their report, the body of the report focused on the reduced scheme. Some CLPG members attended all three Committees. It was clear from the Officer's presentation and the debate in all three cases that it was the reduced scheme which Officers asked the Committees to consider and that is what the Members considered. The Report from Fife Council's Head of Enterprise, Planning and Protective Services presented to the Planning Committee on 17 April 2012 described the original scheme in the heading. Nowhere in this report was the reduced scheme mentioned. That Report suggests that it was the original scheme which was refused planning permission. Since the scheme was never actually amended, that must surely be the position. Throughout, the picture was undeniably a confused one. CLPG believes the Council has mishandled this aspect of the application very badly.

For the purposes of this submission, CLPG's comments relate to the original scheme for seven turbines each 121m tall. However, our essential position would be no different should a scheme of five turbines each 115m tall be considered, as the significant adverse impacts would remain.

In various paragraphs of Chapter 1 of West Coast Energy's Appeal Statement the claim is made that Fife Council officers found West Coast Energy's scheme acceptable. It should be made clear that any statements made about Fife Council officers and rehearsed in this Appeal statement finding West Coast Energy's proposals acceptable, apply to their "reduced" scheme, not the scheme for 7 turbines 121m tall. The history of handling by Fife Council shows unequivocally that Fife Council officers were unable to recommend the scheme for seven turbines each 121m tall. An email from Chris Smith, Fife Council case officer to West Coast Energy dated 9

November 2011 urged the appellants to amend their scheme to five turbines each 100m tall, with no explanation other than that this scale conformed to the upper limit of the ASH capacity guideline for this landscape character type. This email illustrates an absence of genuine assessment of actual capacity of the proposed site itself on the part of Fife Council officers and a misuse of area of search criteria.

At paragraph 1.29, West Coast Energy asserts that a lack of transparency exists in the evidence base for landscape capacity designations in the SPG. This is essentially a criticism of the ASH Design Report and CLPG concurs with this criticism. Notwithstanding, the adopted SPG and the ASH Reports remain material considerations in this case.

The account of recreational amenity given in the Appeal Statement at paragraph 1.31 is totally unsatisfactory. It is no substitute for a proper assessment of the locality's recreational resource (given in Section 2 of this submission) against which potential impacts can be considered. West Coast Energy has failed to provide a credible assessment of impacts on outdoor recreation.

At paragraph 1.39 concerns about visual amenity for local residents are dismissed. CLPG believes that the evidence does not support such a dismissal. In addition, it appears that West Coast Energy, in the last sentence of that paragraph are attempting to invent a new policy test against which to consider visual impact on local communities. The relevant Local Plans have the material which will form the test which is clearly relevant to the Reporter's consideration of this issue.

### **WCE Appeal Statement – Chapter 2 – Planning**

At paragraph 2.33 the appellant interprets "landscape area of search" criteria as "meaning that 5 turbines at 100m can probably be accommodated without significant adverse effects." CLPG asserts that the appellant is not entitled to make such an interpretation of the area of search criteria. An upper limit is an upper limit. The area of search criteria is expressed as a range.

Nothing in the way the area of search criteria have been devised or presented justifies the stated interpretation. It is clear the Appellant wants the planning decision maker to accept this interpretation as a springboard for then attempting a justification of what is asserted (also wrongly) as a scheme whose scale is not much greater.

At paragraph 2.36, the fourth bullet point, the appellant appears again to be rewriting the policy basis upon which a decision has to be made. Policy requires significant adverse effects on the natural environment to be avoided in windfarm developments.

At paragraph 2.49 the appellant asserts that the assessment carried out in the ES and elaborated on by Mr. Mason demonstrate that visual effects of this proposal are acceptable. To achieve this Mr. Mason relies on describing EIA viewpoint findings of “major significance” as “acceptable” in a large number of cases. The assertion has no policy support.

At paragraph 2.52, there is a failure to recognise the policy rationale for outdoor recreational opportunities and their safeguarding. There is also a failure to recognise that road safety can be an issue causing a significant adverse impact on local communities. This is what we had argued earlier in this submission and Policies COU19 and I1 are thus relevant to road safety.

At paragraph 2.54 the appellant yet again is attempting to draw the planning decision maker away from the actual policies upon which the decision has to be made in accordance with the law. Prior to CLPG settling its view on West Coast Energy’s planning application, the Group asked WCE to advise it where else in Scotland turbines on the scale they proposed were built in similar proximity to a local community. They guided the Group to consider Earlsburn near the villages of Fintry and Gargunnoch in Stirlingshire. After a visit, CLPG made a point by point comparison of Devon Wood and Earlsburn which demonstrated a very divergent set of circumstances. In Earlsburn, there are only three dwellings within a 2 km distance from turbine locations with direct sight of them. At Devon Wood at least 51 dwellings within 2 km would have direct sight of the proposed turbines, many more when trees are harvested. At Earlsburn

there are only two settlements within 6.5 km of turbine positions and they cannot be seen from anywhere in either settlement. This contrasts with 18 settlements within the same range at Devon Wood, from all of which turbines would be seen. In paragraph 2.54, the appellant appears to imply that if turbines cannot be built at Devon Wood, they cannot be built anywhere. The contrast between Devon Wood and Earlsburn as a location for large wind turbines provides evidence that the comparison is spurious.

### **Landscape and Visual Impact Assessment**

At paragraph 3.2 it is stated that the LVIA included extensive visualisation materials prepared in full accordance with best practice guidance. A thorough analysis of the visualisation material submitted separately and lodged with the DPEA by CLPG shows that this is not the case. Photomontages were submitted which deliberately selected advantageous angles to diminish the visual impact impression. The Fife Council case officer in presentation to Members gave an example of a potentially very different view if the camera shot had been taken just a few metres down the path.

At paragraphs 3.10 and 3.14, the appellant continues a pattern established in the EIA of understating the existence of residential land use in the area surrounding their appeal site.

In their consideration of landscape character, the appellant nowhere acknowledges that it is highly valued locally. But then they did not take the trouble to find out what local people thought about the local landscape. CLPG consider that to be a significant omission.

At paragraphs 3.34 and 3.35, the appellant selectively quotes the SNH consultation response dated 10 September 2010. CLPG found the contents of this letter contained contradictory statements, in that they reached different conclusions about the locally significant landscape and visual impacts from the appellant. However, for the planning decision maker's purposes, the important thing clarified by SNH, in correspondence with CLPG and lodged with the DPEA,



was that it considered all impacts of a local rather than regional or national significance to be a matter for the Planning Authority. SNH report that the local landscape was important for its distinctive landform and skylines and that the proposal would make a fundamental change to it. The appellant attempts to deny this. SNH did report locally significant landscape and visual impacts and suggested to the Planning Authority that conflicts with local policies may arise and invited it to attach greater weight to the significance of these impacts. In short, while SNH did not object to the planning application, neither did it support it.

An analysis of viewpoints submitted by CLPG to Scottish Natural Heritage clearly demonstrates that the criteria mentioned in paragraph 3.58 have in many cases not been followed in order to present a more favourable impression. The limitations of viewpoints selection, as mentioned in paragraph 3.61, appear to have been taken as a license by the appellant to distort the impression of the visual impact on local residents.

At paragraphs 3.49 through to 3.106, 6CLPG finds the appellant's consideration of visual impacts derisory, in part trying to deny impacts and in part attempting to redefine the policy basis for assessment. To underline this conclusion, CLPG has compiled a table, appended, to illustrate how the findings of the appellant's EIA on visual impacts at some viewpoints are contradicted in paragraphs 3.78 through to 3.96 of the Appeal Statement.

CLPG submits that the conclusions on landscape stated at paragraph 3.170 are not supported by the LVIA offered because true impacts of the scale of the proposal and its locations are at every turn understated. The last sentence of this paragraph states, "However, the landscape has capacity to accommodate commercial wind turbines as demonstrated by the Council's SPG, and this corroborates my view that landscape character effects at this site would be acceptable." This is stated despite earlier heavy criticism by the appellant of how Fife Council arrived at its landscape-based area of search criteria. The area of search criteria for the landscape character type proposes a capacity range of up to 5 turbines up to 100m tall. The appellant's scheme is for

seven turbines 121m tall. The SPG does rightly require specific site assessment of landscape capacity and does not demonstrate that the appellant's scheme is acceptable.

At paragraph 3.173 of the Appeal Statement, setting the scene on visual impact assessment, it states, "Significant adverse effects are not necessarily unacceptable." However, the Appeal Statement offers nothing which would actually justify "*acceptability*" of the significant adverse effects identified in the West Coast Energy EIA, other than to imply that they do not matter very much. CLPG believes the planning decision maker should reject this faulty rationale and base the decision on the test in the Development Plan as the law requires.

CLPG believes the planning decision maker should also reject the form of reasoning advanced at paragraph 3.175. It appears to imply (without foundation) that the majority of local people are likely to be indifferent or positively disposed to the West Coast Energy proposal. The evidence available through the objections received shows considerable opposition to this specific proposal. Neither CLPG nor West Coast Energy have been able to find more than a handful of local people positively disposed to this proposal, mainly landowners. West Coast Energy's tactic for trying to show public support was to commission Yes2wind to set up a stall in Leven (5 km away) and collect letters of support which the Reporter will readily see are general indications of support for renewable energy from people unfamiliar with any of the details of the appellant's scheme. In any event the assessment of the proposals in terms of the Development Plan, as is required by law, does not turn on the basis of local referenda!

At paragraph 3.177, the appellant attempts to argue that the skyline is neither prominent nor distinctive. SNH specifically described the skyline as distinctive in its consultation response dated 10 September 2010. Its prominence will be very apparent to the Reporter on his site visit.

At paragraph 3.182, the appellant acknowledges that some significant visual impacts would arise from the appeal scheme. In the assessment of visual impact from a sample of properties in the EIA, the appellant downplayed impacts by discounting views from north facing windows,

oblique views, views from narrow windows and ignoring views from the curtilage of properties. The appellants also fail to assess the numbers of residents who would be impacted in the same way as those in the sample. This restricted approach to impact coupled with attempts to understate numbers affected is used to bolster the claim in paragraph 3.176 that the visual impacts do not form grounds for dismissing the appeal. Were the impacts recognised as described earlier in this submission, such a conclusion could not be countenanced.

### **Road Safety**

As can be seen from paragraphs 4.9 to 4.11 of the Appeal Statement, the appellant has not taken the trouble to assess road safety issues on the C30 which might arise from the appeal scheme. The letter to which the appellant refers at paragraph 4.11 represents the only written account of road safety issues on the C30, apart from CLPG's survey. That in itself is an unsatisfactory state of affairs. The Reporter should be aware that it took almost 18 months of pressure from CLPG including national television exposure of the issue, to persuade Fife Council Transportation to make any form of road safety assessment at all, despite the content of the Council's own SPG. It should be noted that the paragraph quoted in the letter from its Transportation Department, as a frame of reference for assessment, appears nowhere in policy. Further, when CLPG representatives met the author of the letter on site, it was clear both that he did not know the source of the paragraph (by his own admission, he copied it from another letter written by a colleague) and that he had never seen paragraph 8.5 of the SPG on visual distraction, let alone fail to use it as a basis for assessment of conditions on the C30. The letter's author did however acknowledge at the site meeting that he agreed that turbines would appear in view suddenly in 7 of the 8 locations CLPG identified in survey. He also advised he found one further location missed by CLPG.

## Summary

CLPG submits that the appellant relies on a misrepresentation of planning policy, omissions of relevant evidence and the various inaccuracies and inadequacies in assessment outlined above to make its case for upholding this appeal.

## SECTION FIVE – REQUESTED SITE VISIT LOCATIONS

CLPG has prepared an A3 sized map, lodged as an appendix to this submission in a separate file showing routes and locations. CLPG asks the Reporter to visit using this map to gain a rounded understanding of the appeal sites in their surroundings and to view illustrations of specific points made in this submission.

The following list of locations corresponds to numbers on the map. Most of these apply to both Clatto Farm and Devon Wood appeal proposals.

1. Driving eastwards from Strathmiglo, Falkland and Freuchie, the skyline of Clatto Hill is clear along most of the route. An appreciation of when landscape impacts become significant and adverse can be obtained by considering the scale of existing features on Clatto Hill, coupled with knowledge of the turbine sizes and locations proposed,. CLPG contends this starts happening about 5/6 km from proposed turbine locations.
2. The view from Heatherhall Woods car park gives a good representative view of the impact on the Howe of Fife.
3. Ladybank Station provides a viewpoint for the effect on this Howe town and on Rail transport.
4. In Kettlehill/Burnturk impact on a close settlement may be assessed where some screening is provided by trees, but these are a mature conifer crop which might be harvested at any time.
5. The Old Schoolhouse at Burnturk has no screening from the significant impact which would be felt all along this minor road from the turbines on the skyline.
6. The view from Rameldry Mill Bank gives an excellent overview of the general topography of Clatto Hill area, and helps weigh claims that topography can play the role claimed by appellants in screening turbines from view.

7. Devon Cottage would be a close significantly affected dwelling.
8. The same applies to Clatto Barns.
9. A short walk towards Colliston Hill allows the tranquil semi-wild nature of the more secluded parts of the area to be experienced.
10. The Gateway wood with its access tracks shows volunteer woodland management, and is an example of a location from which there are outstanding views.
11. Clatto Cottages where close dwellings would experience significant adverse effects
12. The landscape setting of the settlement of Star of Markinch would be changed significantly by turbines adversely affecting a distinctive skyline.
13. The effect on a large part of the coastal area on the South side of Clatto Hill can be observed driving North from Leven, stopping at the minor road junction.

## **EVIDENCE**

Should the Reporter decide upon a Hearing or Inquiry to determine the appeals, CLPG is likely to call professional landscape and visual, noise and policy witnesses, and in addition bring evidence from a moderate number of local witnesses. CLPG will be represented by counsel.

## **CONCLUSION**

This brief summary of the existing policy environment for these two proposals indicates forcefully that both these applications should be refused. The Reporter is invited, with respect, to consider this submission; and to tailor the form of examination chosen to that appropriate for each subject heading.

It is suggested that Policy issues, Landscape and Visual issues, and Noise issues, require the formality of an Inquiry Session each; and that Outdoor Recreation issues may be properly examined at a Hearing.

SUBMITTED BY CLATTO LANDSCAPE PROTECTION GROUP

13 August 2012

**APPENDICES**

Map showing dwellings distribution close to Green Cat site (Separate file - CLPF Appeal Response GCR Receptors Map.jpg)

Map showing dwelling distribution close to West Coast Energy site (Separate file – CLPF Appeal Response WCE Receptors Map MSC.pdf)

Viewpoint Finding Comparison of Reported Visual Effects in West Coast Energy's EIA and Appeal Statement (below)

Map showing recommended routes and locations for the Reporter site visit (Separate file – CLPG Appeal Response Routes&Viewpoints.jpg)

**APPENDIX****Viewpoint Finding Comparison****West Coast energy EIA and Appeal Statement**

Table prepared by CLPG directly from WCE EIA and Appeal Statement data

Location		Appeal Statement		EIA LVIA
Clatto Barns	3.78	Public interest test not failed	4.7.31	Substantial significance
Kilmux Cottages	3.81	No unacceptable effects	4.7.48	Moderate to major significance
Whallyden	3.83	No unacceptable effects	4.7.51	Major to substantial visual effects
Devon Cottage	3.84	No unacceptable effects	4.7.73	Major significance
Clatto Cottages	3.85	No unacceptable effects	4.7.33	Major significance
Montrave dispersed	3.86	No unacceptable effects	4.7.37	Major significance
Montrave Home Farm	3.87	No unacceptable effects	4.7.38	Major significance
Morlich	3.88	No unacceptable effects	4.7.40	Moderate to major significance
N of A916 – two properties	3.89	No unacceptable effects	4.7.55	Moderate significance
Burnside	3.90	No unacceptable effects	4.7.60	Major significance
Drummaid	3.91	No unacceptable effects	4.7.62	Moderate to major significance
Langside, nr quarry	3.92	No unacceptable effects	4.7.67	Major significance
SE edge Burnturk	3.93	No unacceptable effects	4.7.85	Major significance
Upper Bunzion	3.95	No unacceptable effects	4.7.87	Moderate to major significance