

## RESPONSE FROM APPLICANT

### Response received 11 March 2024

I note that we are still awaiting a decision notice on this application, but that it is now with the Planning Manager. Thank you for your continued correspondence on this site, but given you have advised this is flagged for refusal, I want to relay our position on this application.

I am anticipating receiving the Decision Notice and Report of Handling to review the reasons for refusal at this site, though I assume that it is in large part due to the objection from NatureScot. I assume the Council may now agree with their objection on the basis of visual impact and are now recommending refusal. Given this, I'd like to again be clear that we do not agree with the assessment NatureScot has made and believe their objection to be overly harsh in light of all the information provided to demonstrate that we are minimising our visual impact as far as reasonably possible given the constrained context and alternatives considered.

As already discussed, our independent Landscape Architect found there to be a level of impact from the introduction of the infrastructure into the landscape, ranging from minor/negligible to moderate/significant. An overall Residual Minor Adverse effect on the NSA and Medium Adverse effect on the WLA were assessed for the structure in locality. However, when viewed in the context of the area, these effects are judged to be reduced to minimal or negligible. NatureScot notes that they disagree with our assessment that distance is a mitigating factor. However, we disagree with this, as all things become more difficult to discern with distance especially in expansive contexts. Further, while we recognise that the proposal will still have a level of visual impact despite being away from residential areas, we do believe this to be a relevant consideration as it changes the receptors impacted by the proposal. Generally residential views, which are permanent and fixed, are considered more sensitive than the more transient and temporary views of walkers and vehicles, for example.

Viewpoints 3 and 4 represent some of the more impacted vantages, but would be taken within the context of existing manmade development such as road, road signs, telegraph poles, buildings, and more. Viewpoint 5 is also particularly discussed as impacted. As the development is offset from the highest elevation, it will in part be seen against a hillside back drop, with other rising hillsides providing a level of screening. The top of the development may be visible from this vantage, but at over 3km away very difficult to discern. Additionally, the proposed galvanised grey colouring combined with the permeable lattice structure allows the development to blend into its environment. Further, there will always be a point at which manmade development becomes visible in these remote areas where it was not previously. At VP5 there is also a track down to Loch Langabhat from Ath Linne about 2km away which creates a long manmade scar on the hillside, which already hints at human presence in the locality. As such, the level of impact a small portion of the mast visible over 3km is considered to be negligible. In fact, this pattern of human presence is a noted aspect of the key characteristics of the LCT the site sites within – LCT 326 which notes that the area, *“Rises steadily from surrounding terrain, contrasting in character between the open remote character of the uplands, and the more diverse patterns of settlements of the coastal crofting area,”* which is also noted by NatureScot.

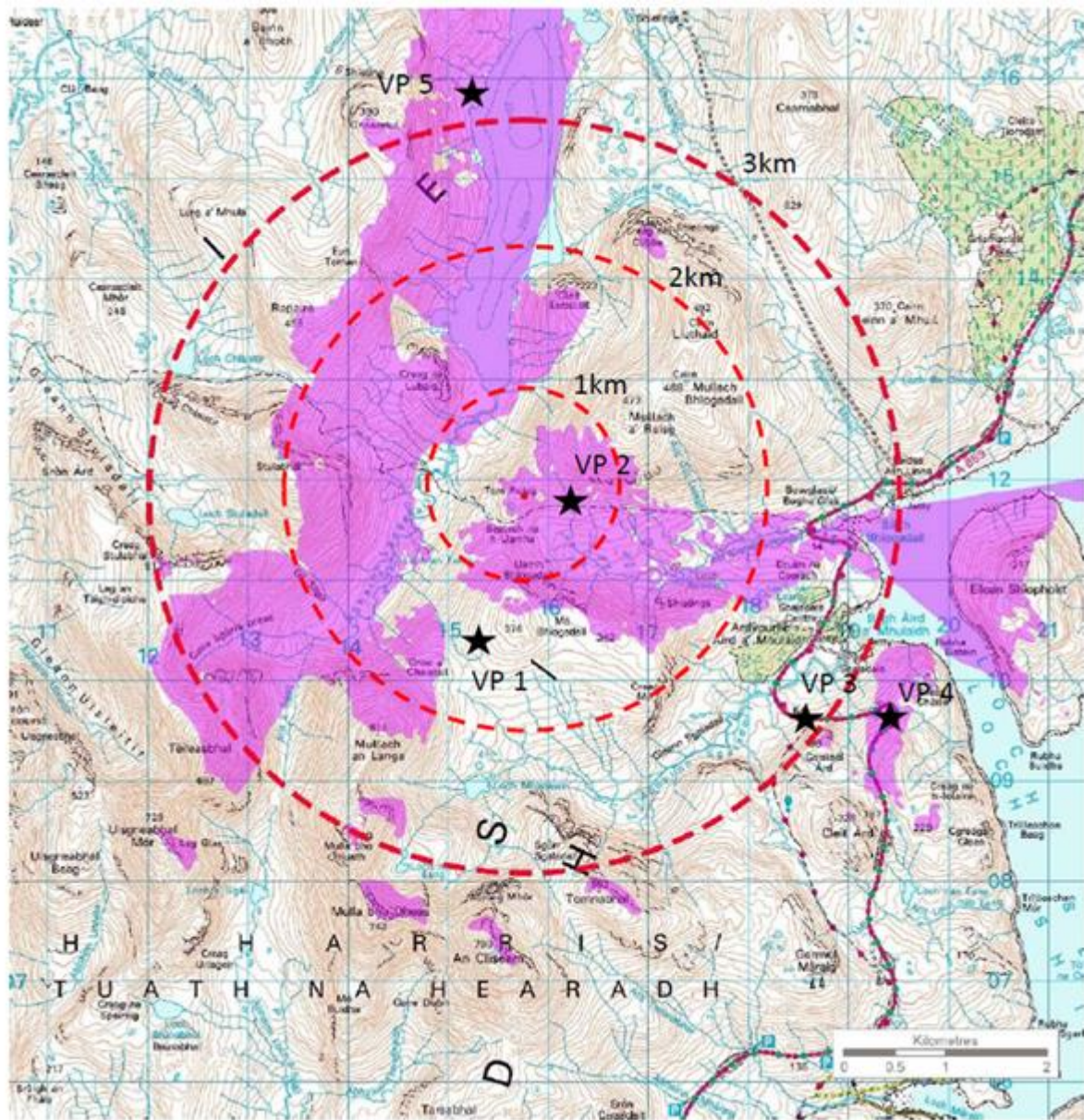
Given all this, we would ask that you consider the application based on its merit and not on the overly harsh assessment provided by NatureScot. In the event the application is refused, we will proceed to appeal immediately and our Client may seek costs through the appeal process as we feel this application is being unreasonably refused.

### Response received 30 November 2023

I just wanted to provide some further justification and evidence where I can - in the event that the formal comments from Nature Scotland don't come through before then.

As noted, NatureScot provided initial feedback comments at pre-application stage so I will assume their comments will follow along these lines. The concerns highlighted understandably centred on the potential impact to the special qualities of the NSA and WLA, with particular focus on the wild character and interplay of the natural world/ introduction of a man-made element, to an area currently void of that presence.

As per NatureScot recommendation, specific viewpoints were discussed between our external consultant and the LPA to ensure we assessed the most sensitive viewpoints (black stars shown below) and agreed prior to attending site.



#### Findings from the Wild Land Area Appraisal

It is considered that the qualities of these key attribute characteristics will not be diluted by the proposed development. Given the extensive large size of the WLA the feeling of solitude and isolation will remain unchanged. The WLA citation notes whilst from the mountain tops the feeling of naturalness and sanctuary, solitude and risk prevail the distant views east also reveal human elements just outside the WLA, these are particularly prominent when contrasting to the backdrop of vegetation of water, from the application site these include roads and masts. As the proposed mast location sits on the outer edge of the WLA boundary it is anticipated that effects would be limited to 1.5km proximity resulting in a small, limited effect.

The appraisal finds that: *“The scale of the mountains and deep glens within, give the accurate impression of remoteness and inaccessibility between with steep sides of glens and mountain as they appear to be one of the same...The introduction of a modern manmade element into this natural and unmodified landscape would affect this quality to a limited extent. It is anticipated that visibility and views would be experienced at a no greater than distance of 1.5km, quickly reducing to 0km. **The distant and wide expansive remote landscape allow the mast to dissipate into the landscape resulting in small, limited effect. When viewed from a height the development infrastructure would appear almost invisible to the naked eye from +700m therefore having very limited effect on the sense of wildness and isolation and not eroding the key attributes of the WLA.**”*

The report further acknowledges that the proposed siting of the development acts as a mitigation measure and so further recommendations for mitigation were proposed by way of appropriate colour camouflage painting - which has been included within the development scheme. The report also notes that this may also reduce the small, limited effects to **Negligible**.

#### Findings from the Landscape Visual Impact Assessment

Due to the elevated position of the site, it is anticipated that there may be some visual impact. The very nature of telecommunication masts means that to optimise the coverage hillside and hill tops are often the most effective locations. The associated impact of the development proposal on these attributes has been assessed as **Negligible**. Receptor groups most likely to experience these effects are walkers and mountaineers. The Wild Mountainous Character SLQ has been assessed and has been judged that the small scale and remote location of the development site may result in a **Minor Effect** with a slight risk of Adverse loss to the SLQ. The risk of adverse effects felt on the SLQ Intervisibility is judged to be **Slight**, resulting in a Minor residual effect. It has been judged that while effects at this distance may be minor, they diminish to negligible beyond that.

The mitigation measures proposed by the consultant recommended the structure does not exceed 25m, colour camouflaging techniques to be implemented and structure to be of a permeable lattice design to allow views through to the rising terrain. While it is noted that the mast and site compound will be prominent and out of character when experienced within its immediate vicinity, when taken in the context of the wider landscape and tall telecommunication mast infrastructure elsewhere on the island closer on the A859 and else were on northern Lewis, it is felt that effect will quickly diminish.

#### Cumulative Assessment

When considering installations of this type within the wider locale as a whole, the report concluded that the intervisibility is only achieved over long distant views - it is not anticipated to change or erode the quality the perception of the wider landscape's remoteness.

#### Other Material Considerations

*Appeal Ref: APP/X1545/W/22/3309199 East End Road, Bradwell-on-Sea CM0 7PY*

A material consideration that carry's significant weight in determining the balance of the application proposal, is that of the recent APP/X1545/W/22/3309199 appeal decision from September 2023. Although located within a highly sensitive landscape, the inspectorate found in favour of the proposal despite of notable harm being identified. Important findings by the Inspector are outlined below:

*“I am advised that the appeal proposal is part of the Government backed **Share Rural Network (SRN) scheme**, which is a collaboration between certain Mobile Network Operators and Government to improve 4G coverage for people living, working and travelling in rural areas, which have little to no mobile coverage. The SRN will ensure geographic coverage from at least one operator to 95% of the UK by 2025, broadening consumer choice for a high-speed and reliable mobile broadband service in rural areas.”*

*“Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks. **I have had regard to the benefits of the***

**proposal, including how it would improve network coverage for people living, working and travelling in this rural area."**

*"Consequently, I find that the proposal's public benefits of expanding electronic communications networks and delivering high quality and reliable communications infrastructure essential for economic growth and social wellbeing attract significant weight. These benefits outweigh the modest degree of harm to the character and appearance of the area that I have identified."*

*Appeal Ref: APP/Q9495/W/23/3318123 Land at Force Hills, Eskdale, Holmrook, Cumbria CA19 1TF*

Further of note are the lessons learned from the dismissal of the above proposal for a 40m lattice structure within the Lake District National Park, England, where it is very evident that the decision to dismiss the appeal was finely balanced.

There are some positives to take in terms of the clear weight the Inspector attached to the benefits and the comments that....

*"In some cases, the benefits of communication infrastructure **will be sufficient to outweigh any identified harm...**"*

*"The public benefits of the proposal, as identified above and relating to the improvement of communications infrastructure, are significant, and I have carefully considered the risk to these benefits being delivered, should planning permission for this scheme be refused. However, on the basis of the evidence before me and in the **particular circumstances** of this case, the public benefits do not outweigh the identified harms."*

Although dismissed, a very real positive is that there can be no doubt that there is a need for weight and balance for harm against the benefits. The 40.0m high scheme was one of the tallest proposals within the SRN rollout (compared to the 25.0m scheme before the Council) and so there can be no doubt that in situations with slightly lesser sensitivity, in terms of both mast height, site specific constraints and relevant designations, then that balance could have fallen in favour of the scheme where it is evident that all avenues have been exhausted.

*Scottish Ministers Appeal ref: PPA-140-2099 L and at Menzion Forest Block, Quarter Hill, Tweedsmuir, Scottish Borders, ML12 6QP*

Similar to the application site, the main issue in this appeal is whether the proposal would have an adverse impact on the natural environment resulting in unacceptable landscape, visual and amenity impacts. **The inspector noted a high degree of remoteness and wildness, and a notable lack of infrastructure in the landscape.** The inspector commented that the mast would be a prominent vertical feature and would look out of place and intrusive. He considered that the magnitude of change was likely to be **medium and the impact substantial to moderate**, rather than moderate to slight adverse and mindful that the residual risk may be greater than assessed. However, the inspector concluded that although the visual impacts are likely to be greater than assessed by the appellant, these would be relatively localised and did not consider that overall the impacts would be unacceptable in terms of damage to wildness and sense of solitude, when taken in balance with the SRN programme objectives, associated benefits and lack of viable alternative locations.

It needs to be kept in mind that the TNS objectives are that of geographical coverage requirements as identified by OFCOM and the Government. It has been demonstrated that there is a clear lack of viable, more environmentally preferable siting options available to the applicant within the search area identified by the overarching radio network plan. It is contended that robust assessments have been made in order to ensure the most appropriate location has been brought forward into the planning process for the Council's consideration and assessment.

All reasonable steps have been taken, through careful siting and design, to moderate the visual impact of the development having regard to technical and operational factors of the SRN. The presumption against

developments of this nature is acknowledged and understood in order to preserve the unique environment, however it also must be acknowledged that this contributes to the socio-economic rural divide.

#### *Geographic v Population*

The expected benefits of getting a combined geographic coverage footprint of 95% are extensive. They include economic and productivity growth, as well as wider social benefits. In particular, the benefits arising directly from the programme are expected to encompass consumer choice, tourism and rural/urban equity. These economic and social benefits are realised in all parts of the country, including rural areas. However, in these rural areas the benefits felt by mobile operators are reduced given the high cost of providing services in those areas and the relatively lower return which has created persistent geographies of market failure and does not support network roll-out. The UK government has a responsibility to ensure all parts of the country are able to benefit from the opportunities provided by digital connectivity, and rural areas are not left behind as part of a digital divide. In these 'total not-spot' areas we will not only be providing new 4G coverage for the first time, but from all four operators. This means everyone will get coverage in these areas, whether you are a local farmer or a visitor to one of Scotland National Parks. The Shared Rural Network is a step change in connectivity – where previously the operators have targeted areas where people live or roads there is also a need for coverage where there are less inhabitants. The geographical targets have been brought in to plug an important gap where mobile coverage is provisioned.

I implore that appropriate and proportionate weight needs to be afforded to the attached benefits and Government aims of the TNS programme as a significant material consideration. The external assessments completed concluded that the extent of impact could be deemed as acceptable and did not threaten extensive damage to the qualities of the WLA and NSA. Further the ecological impact assessments were also found to lie in favour.

In the interim, if there is anything further that you feel the proposal could benefit from to address perceived concerns, we would like to take these into consideration and see if we can satisfy.