


BANKS Renewables
development with care

Our Ref: SP/SS
Your Ref:

3 March 2014

Plans and Research Team,
Council Headquarters,
Newtown St Boswells,
Scottish Borders,
TD6 0SA.


Dear Sir or Madam

**PROPOSED LOCAL DEVELOPMENT PLAN – REPRESENTATIONS OF
BANKS RENEWABLES LTD**


Please find enclosed the representation of Banks Renewables Ltd in relation to the proposed Local Development Plan.

If you have any questions then please do not hesitate to contact me.

Yours faithfully


Stewart Provan
Principal Development Planner

Banks Renewables Ltd, Registered Office: Inkerman House, St John's Road, Meadowfield, Durham DH7 8XL



Registered in England & Wales No. 2387216

Johnston, Charles

From: Stewart Provan [REDACTED]
Sent: 03 March 2014 11:55
To: localplan
Cc: Sharon Serej; Frances Nicholson
Subject: REPRESENTATION
Attachments: REPRESENTATIONS SCHEDULE.pdf; PLANS AND RESEARCH TEAM - L - LOCAL DEVELOPMENT PLAN REPRESENTATION - 03-03-14.pdf

Dear Sirs

Please find enclosed the representations of Banks Renewable in respect of the Proposed Local Development Plan.

We have tried to submit these comments on line but have run into technical difficulties. For ease of cross reference, the enclosed representations have used both the on-line paragraph reference and the hard copy reference.

I would be grateful if you would confirm receipt of this email.

Regards

Stewart Provan
Principal Development Planner

BANKS
development with care

[REDACTED]
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BANKS

On-line para ref and print copy para ref.	Representations
<p>6.9.3 Policy ED9 Paragraph 1.3</p>	<p>This paragraph is fundamentally misleading as it does not accurately reflect the findings of the research commissions by SBC into the economic effects of on shore wind. The Biggar Economics 'Economic Impact of Wind Energy in the Scottish Borders' report clearly finds evidence of strong support and the economic benefits from wind turbine development to the Borders economy. The very first paragraph of the report states :</p> <p><i>"In 2012 onshore wind energy contributed at least £10.8 million gross value added (GVA) to the Scottish Borders economy and supported 115 local jobs. By 2020 this impact could be up to £33.3 million GVA and 325 jobs. There are several actions that could be taken by Scottish Borders Council to help to realise this opportunity... Realising this opportunity is not inconsistent with maintaining a strong and growing tourism sector"</i> (my emphasis).</p> <p>In stark contrast to the findings of the report, this paragraph concludes with a statement that turbines have had 'a detrimental impact on the economy'. The Biggar report provides little justification or evidence to support such a claim. In fact the report concludes the opposite</p> <p><i>"The conclusion of this review is that there is no evidence that wind farms have any significant effect on tourism. Indeed, despite the increase in deployment of onshore wind in the Scottish Borders since 2008, tourism related employment in the area has increased by significantly more than any other local authority area in Scotland over this period."</i></p> <p>While individuals and businesses may perceive that turbines have been the cause of a negative impact, the report does not provide any concrete evidence that this has been found to be the case and therefore comments to this effect should be removed from the development plan as they are not founded on evidence.</p>
<p>6.9.5 Policy ED9 Paragraph 1.5</p>	<p>The development plan states that the council has 'refused those which were considered would have an adverse impact on the Scottish Borders landscape'. This statement is incorrect. Wind turbine developments by their very nature have adverse impacts and there are several approved wind turbine developments in the Scottish Borders which have been found by way of a landscape and visual impact assessment to have significant adverse impacts on landscape character. However these adverse impacts were balanced with the benefits of the scheme and the scheme found to be acceptable overall. BRL would suggest rewording of this sentence to 'refused those which were considered would have an unacceptable adverse impact'. This is an important distinction to make in this introduction to the topic as this test should be the basis for the policy which follows.</p> <p>This paragraph also makes reference to the independent public opinion survey being carried out but goes no further than merely referring to its existence. It would be worthwhile stating the conclusions of this survey, particularly if they have been influential in the drafting of the policy or provide an indication of the general perception towards wind energy in the Borders, especially if such perceptions were found to be positive. At present it reads as if resources were expended on carrying out this review but ultimately it served no useful purpose.</p>

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<p>6.9.6</p> <p>Policy ED9 Paragraph 1.6</p>	<p>The descriptions in this paragraph of the various reports are somewhat misleading. Given the perceived sensitivity of on shore wind development in Scottish Borders it is imperative that the purpose and role of the various documents which form the evidence base for policy formulation is clearly understood.</p> <p>For example, the text of this paragraph states that the Ironside Farrar report takes into account 'opportunities and constraints'. This is in fact incorrect. This document looks solely at landscape constraints and therefore its findings do not take account of other constraints to development.</p> <p>This paragraph and the subsequence emphasis placed on the Ironside Farrer report and its output plans is misleading as it suggests that the report identified 'areas of search', however it does so only within its remit of landscape considerations and ignores other absolute or significant environmental constraints to wind energy development.</p> <p>The concerns of BRL in relation to the way in which the draft policy stance has interpreted the findings of the various evidence base document is expanded on further below.</p>
<p>6.9.7</p> <p>Policy ED9 Paragraph 1.7</p>	<p>This paragraph describes the relationship between the spatial strategy of the adopted Wind SPG and the outputs of the Ironside Farrar study. While the spatial strategy is included within the development plan in Fig ED9b, the accompanying text seeks to highlight it's limitations and goes on to state that '<i>consequently the outputs from the Ironside Farrar study are used in the policy</i>'. This statement and the extent of discussion on the Ironside Farrar study and its plans suggests that the Ironside Farrar report is given preference over the adopted wind SPG. The effect of this is that it implies that the adopted Wind Energy SPG is worth less weight in decision making than an unadopted evidence base study. Clearly this is somewhat illogical and it is unclear if such an inference was intentional. From a transparency point of view it is essential that developers and decision makers are given a clear steer on the policies and guidance they will be assessed against and crucially the weight which will be attached to such documents. In its current wording the development plan is evocative and suggestive on the weight to be attached to both documents. BRL suggest that the council come to a strong view on the matter and that this is accurately and clearly reflected in the wording of the development plan.</p> <p>This lack of clarity would not be an issue if both documents supported and correlated one another however they do not. The Wind Energy SPG took account of a variety of constraints, some of which were of international and national importance (protected under European legislation) and such areas were categorised for the purposes of the spatial strategy as areas of significant protection. The Ironside Farrar report took account of landscape character and the ability of these to accommodate turbine development. When reviewing the output maps for these documents it is clear that the two documents contradict each other as there were areas which the spatial strategy categorised at being worthy of significant protection but yet the Ironside Farrar study concludes them as being of 'highest capacity' for development. Such an example can be found where the Moorfoot Hills Special Area of Conservation is identified within Fig ED9b as an 'Area with Highest Capacity'. Therefore in effect, by specifically prioritising the</p>

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	<p>Ironside Farrar outputs in the development plan with the use of 'ED9a Wind Turbine Development Opportunities and Constraints' the Council are effectively placing more importance on protecting undesignated landscape character areas over the international and national constraints behind the spatial strategy of the SPG. The disparity between the two documents and the clear preference to protecting undesignated landscapes over international designations needs to be addressed as at present the plan's attempts to offer strategic guidance for the location of wind farms is at best contradictory and at worst bordering on being found to be in conflict with European legislation.</p> <p>With specific reference to Figure ED9b we strongly suggest that the title is misleading. It is titled 'Wind Turbine Development Opportunities and Constraints'. This suggests that constraints to wind energy have been factored into the foundation of the plan however they have not. As it is the intention of this plan to direct development, we would caution that the council are implying through the title of this plan that if a developer was to use this plan as the basis and foundation of their site finding strategy they would be doing so on the belief that constraints had already been taken into consideration when they have not. BRL would suggest amending the title of the plan to more accurately reflect its content.</p>
6.9.11 Policy ED9	<p>In the criteria for renewable energy developments the test for impacts within section 1 is a test of 'fully mitigated' while the impacts in section 2 must be 'satisfactorily mitigated'. BRL would question why a distinction is made between the two types of impacts and furthermore the effect of such a distinction is that it suggests those areas within section 2 require less mitigation or that the impacts need not be addressed to such a great extent. Section 2 quotes both impacts on 'population' and 'communities'. This is unnecessarily repetitive.</p> <p>The policy requires that <i>'the contribution to the wider economic and environmental benefits outweigh the potential damage to the environment or tourism and recreation'</i>. BRL strongly suggest the inclusion of social benefits be added into the test. Omitting to include the social benefits in the policy could mean that decision makers would place no weight on these benefits when weighing the planning balance. Such a balance would clearly be in conflict with national policy. BRL strongly disagree with the specific mention of benefits needing to outweigh impacts on tourism. The evidence base report by Biggar Economics quite clearly states in the conclusions in section 10.2.1 <i>"Section 3.4 of this report considered the evidence that exists about the potential impact of wind farms on tourism. It found that there is no evidence that wind farms have a negative impact on the tourism sector, a conclusion shared by both VisitScotland and the Economy, Energy and Tourism Committee of the Scottish Parliament."</i> There is no evidence within the evidence base to the development plan to justify the inclusion of references to tourism impacts within the policy. To go one step further and require such supposed impacts to be singled out specifically when carrying out the balancing exercise of impacts against benefits is entirely unreasonable.</p> <p>Wind Turbine Proposals</p> <p>The policy states that <i>'guidance on planning constraints and landscape capacity can be obtained from the following diagrams.'</i> However as set out above, the</p>

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	<p>introductory text to the policy suggests that the outputs from the Ironside Farrar report take precedence over the spatial strategy. At present the policy offers no strategic guidance to the location of development and is instead in practice is contradictory. The disparity between the SPG and the Ironside Farrar document must be addressed and a clearer direction given to developers and decision makers.</p> <p>The policy states <i>'If turbines are proposed which exceed the turbine heights identified in Figs ED9b-e the onus would be on the applicant to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated in an effort to show a proposal can be supported.'</i> Fig ED9c includes turbines of 25m – 50m and ED9e includes turbines greater than 100m. Effectively this paragraph of the policy suggests that if you are less than 25m you do not have to pass this test. It is also not entirely clear what the purpose or aim of this requirement is save for instructing developers to ensure that they adequately demonstrate the impacts and mitigation. This is adequately addressed through the Environmental Impact Assessment Regulations and we strongly disagree with wasting development plan space with instructions to developers. Such matters are more appropriately agreed through consultation and dialogue. More pertinent is the test to be exercised in this section of the policy. It requires that significant adverse effects must be mitigated in order for the proposal to be supported. Such a test is too high as it is inevitable that significant effects will be realised from large scale wind energy development. To apply such a test would effectively exclude all commercial scale wind energy development in the Borders and this would clearly not be in conformity with national policy. Indeed we note that our approved Quixwood Moor wind farm environmental statement concluded that there would be a number of significant effects within 7km of the development. Crucially such significant effects were found to be acceptable in the case of Quixwood, demonstrating that it is not a mere presence of significant effects which determines whether the proposal should be supported or not but rather whether such significant effects are considered acceptable. If the test in this policy were to be applied to the Quixwood Moor proposal it would have failed the test and consent could not have been supported.</p> <p>BRL would also question why the test for renewable energy development and wind energy developments are different. The renewable energy test is one of no 'unacceptable significant adverse effect' yet the test for wind turbines is higher, requiring significant adverse effects to be mitigated for the proposal to be supported. Such a distinction is inconsistent with national policy. BRL strongly suggest rewording the policy to include a more measured test of 'any unacceptable significant adverse effects'.</p> <p>Under the heading of 'Landscape' the policy test requires the landscape must be capable of accommodating the proposal without significant detrimental impact on landscape character and not have adverse impacts on wild land. As noted above this is too high a test for commercial scale wind turbine development and the application of this test would exclude turbine development in the Borders which would be contrary to national policy. BRL suggest the policy is reworded to no 'unacceptable significant detrimental impact'. This section of the policy also suggests large turbines are more likely to be accepted in larger scale landscapes</p>

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	<p>and gives the example of upland types. The policy should either list all the landscapes considered 'large' scale or remove the specific reference to upland types. This could be interpreted too literally by decision makers, with those proposals not located within the upland types considered to automatically not be in conformity with the policy.</p> <p>The policy states locations will be 'preferred' where there is no interference with 'prominent skylines'. The use of the term prominent skyline is ambiguous and no guidance is given to where these skylines might be. Similarly skyline views are an inevitable consequence of development of this scale and therefore the test of not interfering with skylines is too high. The policy also states proposals will be 'preferred' where there is surrounding landform and proposals minimise external visibility. The presence of surrounding landform or the extent of visibility is not the only factor to be considered when considering acceptability. Just because a proposal may not be confined by landform does not automatically mean it should be ranked as being less preferable. For example, a proposal may be contained by surrounding landform however; such surrounding landform may be a National Park or National Scenic Area. The wording of this policy would mean that such a site could be claimed to be 'preferred'. The use of the word preferred suggests there is some sort of ranking or priority when considering this element of the proposals impact and it is clear that little thought has been given to the application of this section of policy and the consequences its application might have on other impact considerations. While we agree it is important to consider the effect of visual containment and prominent skylines, BRL strongly advocate for the removal of the word "preferred" in order to ensure that compliance with skylines and surrounding landform is not given preference without consideration being given to other impacts.</p> <p>In the 'Cumulative Landscape and Visual Impacts' section the policy states that significant cumulative impacts must be avoided where an existing wind farm development is present in an adjoining area and can be viewed together with the proposed development. This approach is severely flawed as it automatically assumes that there will be significant impacts if two wind farms can be seen adjacent to each other. The extent of cumulative impacts and their acceptability is most appropriately determined through the LVIA, it should not and cannot be automatically assumed as is suggested by the wording of this section of policy. We strongly advocate for its deletion. Again, as repeated several times above the use of the words requiring adverse impacts to be avoided is too high a test and BRL suggest the addition of the words 'acceptable'.</p> <p>The paragraph of the policy on Biodiversity does not make sense, there is no policy test within it and therefore it does not advise the decision maker what level of impact is deemed acceptable. We suggest adding a policy test into the paragraph or alternatively remove.</p> <p>Similarly the following sections of the policy on Historic Environment, Technical Considerations and Infrastructure is no more than a shopping list of effects which would have to be considered when proposing a renewable energy development. As such in its current format this text serves no useful purpose and we would question the benefit of taking up development plan space simply to list a range of effects.</p>

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	<p>BRL strongly advocate the inclusion of policy tests to advise the decision maker on how to assess the acceptability of the proposal.</p> <p>Again the section on Other Considerations has no policy test and instead merely lists the elements a developer should consider and demonstrate when designing their site and minimising impacts. These are all matters which the developer is required to address within their environmental statement. While it is obviously useful for the local authority to guide developers on the level of information required, we feel it is inappropriate to do so within the content of the policy. In effect, provided the developer submits the information listed in this section they will be in conformity with the policy, irrespective of whether carrying out the actions listed in the policy have had positive or negative implications on the proposals impacts.</p> <p>The section on Other Renewable Energy Development includes discussion on small scale or domestic renewable energy developments. The test in this section of the policy is much less onerous than that for wind turbine projects and is one of being 'satisfactorily accommodated'. There is no support in national policy for adopting a different level of test for the two scales of development and BRL strongly suggest rewording the policy to provide a more consistent approach.</p>
<p>6.9.12 Policy ED9</p>	<p>The accompanying text to the policy concludes by indicating that the policy should be cross referenced with a total of 19 other policies. Given the length and comprehensiveness of Policy ED9 this long list of cross referenced policies would appear to be somewhat onerous and potentially very confusing. As noted above Policy ED9 appears to contain differing policy tests for Renewable Energy alone (unjustified in the view of BRL). From a cursory review, it is clear there are several instances where the policy tests set down in the cross referenced policies is different from that set down in ED9.</p> <p>BRL would suggest the purpose of the renewable energy policy is to succinctly set out all of the relevant criteria and tests for assessing a proposals acceptability. The tests in this policy should be consistent with other policies in the plan and crucially be expanded and tailored to consider the specific impacts of proposals within the context of that topic. BRL would strongly suggest that the policy tests in Policy ED9 are reviewed and simplified and that the need to cross reference to other policies minimised.</p>