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From: Ian Kelly [REDACTED]
Sent: 02 March 2014 15:33
To: localplan
Subject: LDP - Proposed Plan - Objection
Attachments: Project 849 (SBC - LDP) Response - Burncastle Farming Ltd.pdf

LDP Proposed Plan

Proposed Policy ED9

Objection

Good afternoon,
I attach the objection submission on behalf of Burncastle Farming Ltd, part of Northumberland Estates. Their interest is fully explained in the objection text.
Regards,
Ian



Graham + Sibbald
Ian Kelly
Head of Planning

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GS/849/IK

Town and Country Planning (Scotland) Acts 1997 and 2006

CONSULTATION RESPONSE TO SBC LDP PROPOSED PLAN (Policy ED9)

RESPONSE

on behalf of

Burncastle Farming Ltd

Submitted by email only: deadline of 3rd March 2014

Ian Kelly MRTPI,

Head of Planning, Graham and Sibbald



Background

1. This objection submission is in respect of the Scottish Borders Council's proposed planning policy approach to renewable energy, including LDP proposed policy ED9: Renewable Energy Development, as set out in the Proposed Plan for the Local Development Plan (LDP). The nature of the objection submissions requires that other aspects of the Proposed Plan are also considered. Whilst there are many aspects of the proposed policy that are supported, in administrative terms the submission should be considered as an objection so that it will, ultimately, be passed to a Reporter for consideration as part of the formulation of the final version of Policy ED9.
2. The objection has been prepared and submitted on behalf of Burncastle Farming Ltd (BFL), part of Northumberland Estates, owners and managers of the Burncastle Estate, near Lauder. The instructions in this case have been issued by Mr Colin Barnes, Planning Director for Northumberland Estates.
3. BFL are concerned about the potential significant adverse effects of renewable energy proposals in the vicinity of their interests at Burncastle and in the wider lauder and Lammermuir areas. BFL fully appreciate that the assessment of such proposals, the promotion of opportunities, the objections to such proposals, and ultimately the determination of renewable energy applications all must sit within the appropriate, relevant and clear planning policy framework. The actual detailed policy considerations and the subsequent objections to proposals will vary depending on the circumstances. However, it will be the same planning policy framework that will apply in all such circumstances. Therefore, it is considered that essential that a submission, which can only be classified as an objection, is made in response to the Proposed Plan for the LDP.
4. The objection has been prepared by Ian Kelly MRTPI, Head of Planning at Graham and Sibbald, and a chartered town planner with thirty five years' experience in the public and private sectors, mainly in Scotland but also involving work south of the Border, and in Europe, mainly in Scandinavia. His relevant project work has included around 20 major wind farm cases at various stages in the s36 consent/deemed planning permission process, and a greater number of wind farm planning

applications. More recently a significant part of his workload has been the assessment of individual wind turbines and run of stream hydro proposals. He has also assessed emerging renewable energy policy in a number of Local Development Plans in Scotland and England.

Future Procedure

5. It is not known if the Council, having considered the responses to the Proposed Plan, will bring forward amendments and consult on these or whether it will simply pass the unresolved objections/submissions to the DPEA to hold an Examination of the Plan. If it is the later approach then the objectors would respectfully submit that oral evidence sessions are essential in order to develop a proper, criteria based policy approach that draws on the widest possible experience.
6. By way of an example in this regard the relevant policy in the Highland Wide Local Development Plan (HWLDP) was the subject of objections from a variety of interests, including those promoting renewable energy projects and those concerned about the effects on sensitive receptors. The Reporters undertaking the Examination of the Plan changed the wording and the effect of the proposed policy, but without hearing any oral evidence whatsoever. Consequently, as a result of uncertainty in both the original wording and the amended wording, the policy is now less than clear in its operation, the basis for complying with or failing the policy is unclear, and the policy refers to both old and new Supplementary Planning Guidance whose status is unclear and incomplete. Therefore, this policy which in its Adopted form has never been the subject of any testing by way of oral evidence, is now a very unsatisfactory basis for assessing wind energy proposals and advising clients, and for giving evidence at Inquiries whether in support of a proposal or in opposition to it.
7. A similar pattern is now also emerging the Examination of the Dumfries and Galloway LDP where, in respect of the two renewable energy policies, the Reporters have requested further information from the Council and others on parts of the policies and parts of the objection whilst suggesting that a one day Hearing might be held. This highly disjointed and partial approach means that affected and interested

parties have no idea as to how the policies are likely to emerge from the Examination process or, indeed, what might be discussed at the possible one day Hearing.

8. Such situations can and should be avoided. Policy should be crystal clear and precise and the whole policy should be tested by way of oral evidence during the policy development phase, with this process leading to consistent and predictable outcomes based on a clear and precise policy.

Relevant Scottish Experience

9. Before reviewing the relevant section of the Proposed Plan it is considered worthwhile to extend the submission by giving careful consideration to the Scottish wide context for these policy related issues. It is considered that the key issues flowing from the wider Scottish experience in the integrated areas of policy development and case work are directly relevant to the Council's current Local Development Plan (LDP) Proposed Plan consultation process. The issues are set out below and the key matters arising are fully taken into account in the response to the Proposed Plan consultation.
10. The first matter of relevance relates to the generality of **the benefits of renewable energy** (as these are to be offset against or balanced with adverse impacts when making project decisions).
11. The Scottish Government's renewables policy, which sits within UK National Energy Policy, is now well known. Ministers are fully committed to promoting the increased use of renewable energy sources where it is environmentally appropriate, and so long as impacts can be satisfactorily addressed. According to Ministers, this commitment recognises renewables' potential to tackle the causes of climate change and harmful pollution, as well as their potential to support economic growth. Scottish Ministers have set clear targets for renewable electricity. The current target is for 100% of consumption to be met by renewables by 2020 with an interim target of 50% by 2015. However, there is no documentation associated with this policy that defines or sets out any listing or quantification of the verifiable benefits, especially environmental benefits, of renewable energy installations.

12. Therefore, in short, there is no actual evidence of environmental benefits to back up the assumed environmental benefits of renewables that are normally factored into the supportive national planning (and related) policy framework. Thus, at this point in time, it cannot be said that the politically driven objectives equate to a properly defined plan or framework for subsequent permissions or consents. Rather, any Government issued renewables targets are simply one of a number of key considerations for Planning Authorities when preparing their LDPs.
13. The key point for the Council is that it has never been possible for the Scottish Government to produce **any** evidence to show actual environmental benefit from renewable energy. That outcome will clearly influence the weight that the Council places on the benefit side of the scales when developing LDP policy and when taking a balanced policy development approach for renewables. It should also lead to a policy framework that provides precise guidance for applicants on how they should set out and assess the benefits of a proposal that, in turn, can properly be taken into consideration in the planning balancing exercise. Such an approach will make the assessment of applications much more consistent.
14. The next key area of direct interest is that of:
- “**Broad areas of Search**” which are, generally, preferred areas for wind farm developments, and
 - “**Areas to be Afforded Significant Protection**” which are, generally, areas where new large scale wind farms should not be developed.

As the designation of these types of areas usually follows on from public consultation on drafts, there is an expectation that the designations mean something.

15. However, there have been recent cases where wind farm proposals, lying almost wholly within a defined broad area of search have been comprehensively rejected, on an impact criteria basis, by the relevant Planning Authorities. Although such an outcome is possible within the scope of Scottish Planning Policy, the Reporter asked the Council witness, at the subsequent appeal in relation to such an outcome – *what is the point, what is the benefit of having a broad area of search if proposals still have*

to satisfy criteria that they can readily fail (in the Councils' view). There was no real response.

16. The basic problem with the areas for significant protection, as with the broad areas of search, was that there is often still reference in the relevant part of the relevant policy or Supplementary Guidance to assessment criteria. The use of those criteria has enabled Committees and Reporters to approve schemes, based on their personal assessment of effects, despite the very clear spatial guidance. The outcome has left local objectors and other interested parties wondering what the point or benefit is of areas being designated as “to be afforded significant protection” when criteria can still allow major wind farms to proceed. This is important to BFL when considering renewable energy proposals that affect their interests.

17. The lengthy experience of the **Highland Council (THC)** in trying to develop wind farm policy and spatial guidance, since 2005, probably merits detailed face to face discussion between the respective Council Officers. However, for the purposes of this objection submission a brief set of bullet points will suffice as follows:

- Very broad, generic Structure Plan policies, from 2001, led to widely differing interpretations and inconsistent decisions
- The first attempt at Supplementary Planning Guidance – HRES 1 from 2006 – was based on an extremely detailed and complex methodology, but with no associated fieldwork testing and verification and, despite massive external consultancy costs and extensive public consultation prior to adoption it was, effectively, abandoned by the Council after the first Inquiry in which it was tested. Yet, the Council still sporadically and inconsistently refers to it
- There then followed an extensive period where decisions were made without an up to date spatial framework and policy base
- Eventually a draft of new guidance, HRES 2 was produced in 2011 and that included detailed pilot areas in terms of spatial guidance. The document was subject to severe criticism and, rather than bolster the fieldwork element to address those criticisms, the Council withdrew that version entirely and, in

2012, adopted an interim HRES 2 which basically just has constraints maps with residual areas, covering the bulk of the Council's area, shown as areas of search with criteria

- However, those Areas of Search are not actually areas that have been reviewed in any form of study or fieldwork. They are simply the areas left over from mapping some designations. There has been no fieldwork or assessments to define the areas where the landscape has reached capacity as a result of cumulative effects. One outcome is the Search Areas for Wild Land, protected in the NPF2 and the SPP and addressed in the new CAWL mapping and NPF3/SPP2, are virtually all included in the Highland Council Areas of Search for wind farms – an incredible outcome
- In the meantime the Council progressed a new Local Development Plan. As advised earlier, the wind farm policy within that was the subject of many objections from a variety of interests. The Reporters who “examined” the LDP introduced significant changes into the policy without any oral evidence at all. The result is a policy which has never been tested at any Inquiry and which refers to both HRES 1 and HRES 2 but, ultimately, leaves the balancing of criteria in the policy and the subsequent finding of compliance or non compliance to be addressed by Planning Officers and the Council on a case by case basis. In the form that it is actually written the policy is, if properly interpreted, devoid of meaning and that is not helpful to either applicants or objectors

18. As will be well known to the Members and Officers as well as to local interests the case of the **Scottish Borders Council (SBC)** demonstrates the problems of trying to take effective planning policy action, but too late. Following an onslaught of wind farm applications, many of which were approved at appeal contrary to the clear position of the Council, SBC embarked on a programme of work to produce Supplementary Planning Guidance (SPG) and to review local landscape designations (although the work did not proceed smoothly in parallel). The outcomes were, broadly:

- The initial draft SPG simply showed that a considerable number of wind farms had actually been approved, usually on appeal, in areas that were subsequently assessed as meriting significant protection
- The final version of the SPG, although welcome, was adopted in a form that had not been the subject of public consultation
- The local landscape review came well after the SPG had been finalised. The initial draft seemed to leave too many locally valued areas as “available” for wind farms and the necessary cross referencing changes to the SPG were not set out. Following consultation the designated areas were significantly extended but the adopted SPG (see above) still remains in a form that does not include a policy reference to the new landscape designations
- The policy basis, although strong in overall intention, is in practice a bit disjointed

19. The wider experience also shows that the absence of an up to date policy framework that assembles and logically presents all of the necessary evidence significantly increases the chances of “**rogue decisions**”. In the case of the Dorenell wind farm in Moray, the Council had a reasonably up to date Local Plan but had not updated their SPG. There was no new landscape capacity assessment. At Inquiry a Reporter, having considered this policy position, recommended the grant of s.36 consent for a 49 turbine scheme in an AGLV, and only a short distance from the National Park boundary, and awarded cost against the Council. Subsequent Wild Land mapping by SNH showed that the objectors were correct as to the key attributes of the application site, whilst the Council’s subsequent commissioned landscape capacity assessment for new draft spatial guidance showed that the landscape in this area had no capacity for any commercial scale turbines of any size.

20. Interestingly, and subsequently, a single turbine application in the same AGLV was turned down at appeal by another Reporter using the same policies that had “merited” the award of costs in the Dorenell case. It is difficult to totally avoid rogue decisions, but in this case, had the evidence base and SPG been fully up to date and properly

presented, it would have been significantly more difficult for the Reporter to reach the recommendation that he did.

21. Another critical issue, for rogue decisions, is the **current operational protocol of SNH** in relation to the use of the word “object”. Ministers and the SNH Board only allow SNH staff to use the word “object” in relation to wind farms where there is an identifiable national level natural heritage interest. In the case of the recently approved (following an Inquiry) Wester Dod wind farm SNH were not permitted to use the word “object” because of the above protocol. However, their advice, in writing and stressed in the letters, was that the wind farm in the proposed location was completely unacceptable in principle, on account of landscape impacts, and no mitigation was possible. Nonetheless, the absence of the word “object” allowed the Reporter to deal with this matter very lightly and, in the end, he overruled SNH’s total opposition by just deleting three turbines. Therefore, policy should clearly set out the terms of the SNH protocol and confirm the weight (ideally an equal weight) that is to be given to SNH “advice”.

22. Related to this is the aspect of **vaguely worded or imprecise policies**. Planning policies which suffer from this type of problem, often deriving from an attempt to be positive towards renewable energy proposals, are subject to widely varying professional interpretation often on an individual personal opinion basis. An outcome from this is inconsistent decision making, by Councils but, particularly inconsistent outcomes at appeals. The product, as seen in several parts of Scotland, is a situation of almost random decisions. Faced with the same policies and similar effects on similar landscapes, the one thing that is not the same is the outcome in terms of the decision on applications. As before, such a situation is not helpful to either applicants or objectors. Thus, recently, near the same National Scenic Area (NSA), one Reporter turned down a single turbine at 100m high whilst another Reporter permitted a sizeable wind farm with turbines 125m high. The affected public, as well as the renewables industry, find this pattern of outcomes very hard to understand and to accept, thus undermining public confidence in the planning decision making system. Policies that were much more precise in their wording, including clear guidance on

how the specified criteria are to be applied, with clearly defined thresholds of acceptability, would minimise the chances of such inconsistent outcomes.

23. Much of the recent planning policy and spatial guidance development work in Scotland has related to wind farms. However, in the last two years there has been an extremely rapid rise in the number of applications for **single or small groupings of turbines**. This trend has also been seen in the Council’s area. The consequences have been very significant and often accompanied by considerable controversy. These applications have often been of a highly speculative nature with companies lodging large numbers of poorly developed and poorly supported applications in a limited geographical area having persuaded landowners to allow a complete “turnkey” type proposal to proceed. Councils have found themselves overwhelmed with applications and, in some cases, unfortunate patterns of decisions have emerged not just in terms of individual approvals but also in terms of development patterns consisting of turbines of different sizes and different styles all within the same geographic area. In addition, there has been a trend of permissions for smaller turbines, say 25m high, being immediately followed by applications for larger turbines on the same site. Some individual turbine application proposals are now at 75m to 100m high. It is clear that some Councils are still struggling to cope and some have proposed a moratorium until new guidance can be prepared.
24. Conversely, where Councils recognised very quickly the need for specific landscape capacity assessments and related policy guidance specifically for this type of renewable energy development, robust decision making frameworks have resulted which, in turn, have led to a clear and consistent basis for dealing with these applications and, as a result, enhanced public confidence in decision making. Such a robust, well considered, policy based approach also assists those bringing forward well thought out small scale individual turbine proposals.
25. Probably the best example of a positive response has been that of East Lothian Council where rapidly produced interim policy guidance was quickly followed by a specific, new landscape capacity assessment. The outcome has been a precise, robust and consistently applied policy framework that was supported in appeal decisions.

This approach is strongly recommended to the Council. However, East Lothian Council became slightly complacent on appeals and two recent decisions have gone against the new guidance.

26. Another aspect that is now coming to the fore, both for wind farms and for individual applications, is how to best approach and assess **cumulative landscape and visual impacts**. In the past the approach has been to define a baseline and then to consider the additional effects of the proposed scheme on that baseline. However, with increasingly complex patterns of built schemes, consented but unbuilt schemes, proposals and schemes at scoping, combined with individual turbine applications and, also recognising that the cumulative position can change during the determination period for any proposal, the situation is becoming much more complex. The cumulative effects are, as a consequence, also becoming more complex. The emerging consensus of view is that traditional approaches are limited and that the starting point has to be an independent (and not scheme related) assessment of landscape capacity directed at groups of applications. That, in turn, might well lead to a stronger justification for taking the consideration of proposals in clusters rather than on a first come first served basis. The Council has made a considerable effort in this regard. However, if this approach is to be successfully adopted by the Council then that needs to be made clear to both the applicants and the affected public, through the LDP, so that assessments and responses from all interests can be prepared on a consistent basis.
27. A number of recent appeal decisions have given consideration to the likely **local economic benefits** of wind farm proposals. The view that has been consistently reached has been that, although the benefits are positive, they are likely to be locally very limited. They have not been found to be a significant factor in deciding to approve or reject proposals. The Council should make it clear that they expect to see accurate, reasonable and realistic predictions of economic effects of proposals, including the negative effects, when applications are lodged.
28. Finally, considerable effort is being made to learn from what has already happened and, in particular, **to compare actual effects with predicted effects**. This has led to

two areas of new practice in terms of visual impacts. Firstly, use is now being made of wirelines printed on A3 transparencies. This allows for much better matching of the topography when used in the field. However, it also allows a retrospective assessment to be made after a wind farm is built. Secondly, some Councils have tried to secure much more “realistic” photomontage visualisations through the use of large format single frame images. This approach has been followed by the Highland Council and Perth and Kinross Council. There has been debate about this latter aspect but certainly members of the public feel that these single frame images are more “real”. It is understood that new SNH guidance is imminent in this regard.

29. Whatever view the Council finally adopts on this matter the standards expected for supporting information should be clear set out in policy. The Council should also consider commissioning a specific before and after study to compare actual and predicted effects for a sample of wind farms so as to properly inform the compilation and the assessment of future applications.
30. Finally, as the Council might be aware, the Scottish Government is funding a major 14 month study into the “before and after” effects of wind farms focussing on noise and LVIA effects. This study will conclude in early 2015. The Council might well wish to adjust its policy approach then to reflect the outcome of the study.
31. The objectors would strongly urge the Council to have full regard to this wide range of experience to date, across a number of Council areas, when considering the objection submissions to the renewable energy policies in the Proposed Plan.

Consideration of the Proposed Plan

32. The principal concern for this objection is the section of the Proposed Plan dealing with Renewable Energy.
33. Paragraph 2.18, part of the **Key Outcomes** section of the Proposed Plan is a general narrative about renewable energy. It refers to the “potential” for adverse and cumulative effects. The reality, in the SBC area, is that there effects are already present in many areas, often as a result of decisions taken contrary to the view of the Council. It is considered that this should be made crystal clear in the Plan text.

34. Key Outcome 9 then follows on but as it refers to “development on sustainable locations” it is unclear if this is a renewable energy outcome or a general outcome. This should be made clear and if it is referring to renewable energy then, for wind farms, it should be precise as to where these locations are – and, of course, where they are not.
35. Key Outcome 10 is expressed in the form “the encouragement of renewable energy only in sustainable locations where adverse potential cumulative impact can be avoided”. The text, taken literally, would imply that scheme specific adverse effects are acceptable as only cumulative effects are mentioned. That simply cannot be the intention of this Key Outcome. However, setting that point aside, the wording used is so generalised as to be meaningless in real terms. Either greater precision of wording, with locations actually identified (perhaps with a cross reference to guidance), is required or the current wording should be deleted. Until this is addressed BFL object to the current formulation of Key Outcome 10.
36. The proposed renewable energy policy is **Policy ED9 Renewable Energy Development**. Before going on to address the policy itself it is necessary to consider the relationship with other policies in the Proposed Plan. As set out on page 64 of the document the Proposed Plan has a number of individual policies that address issues that might be relevant to the consideration of a wind farm proposals – for example, proposed policies ED10, EP 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14 and 15 and IS 2 and 8. The text of the Proposed Plan states “key policies to which this policy should be cross referenced”. That, with respect, is meaningless. Does a proposal have to pass the tests in ED9 AND all of these other policies or are some more important than others – no guidance whatsoever is given.
37. It is submitted that it is much simpler if it is made clear that the consideration of a wind farm proposal will be determined by compliance or otherwise with Policy ED9 ALONE without there being the need for a trawl through all of the other possible policies. This will then avoid the situation of developers submitting supporting statements that try to draw support from just about every other part of the Local development so as to downplay the non compliance with the renewable energy policy.

BFL submits that the pre-eminence of Policy ED9 in the assessment of wind farms and wind turbines applications should be made absolutely clear.

38. Turning to the policy itself the first thing to note is that the introductory text, the maps, the policy and the notes all run to 11 pages and that is without taking into account the 3 key Council productions listed in paragraph 1.6 and the additional list of guidance on page 65 of the Proposed Plan. That is far too complex and complicated and, as a result, transparency and certainty had disappeared. BFL submits that significant simplification of the policy presentation and content is required.
39. In terms of the introductory text paragraph 1.5 refers to the independent public opinion survey. However, the results of that are not presented as part of the policy justification nor is the absence of the information explained in any way.
40. Paragraphs 1.7 to 1.9 introduce the spatial strategy maps. However, paragraph 1.10 then states “The aforesaid advice sets out how the Council will consider planning applications for wind turbines. However, site specific details of the application will also be considered as part of the determination process”. BFL submits that the second sentence simply undermines, fatally, the first sentence in the absence of clear and precise advice as to the relative weighting of the spatial strategy and specified site aspects in any particular case. In the absence of such advice it is simply not possible to work out the likely outcome of any application.
41. The five spatial strategy maps are then set out. However, the relationship between the Wind Energy SPG Spatial Strategy Plan and the other plans is not made clear at all. Indeed there appears to be some areas of conflict between them and within them (for example an area shown as having the highest capacity is also within an area where cumulative impacts limit development). Those are completely incompatible designations. BFL submits that the spatial strategy maps need to be revisited by the Council with a view to identifying, as a priority, those areas where no turbines and/or no more turbines will be permitted.
42. It is accepted that if the published draft of SPP2 ends up as the adopted version then the approach to spatial guidance will need to be changed. However, for the moment it

is necessary to set that aside to avoid speculation. It is planned that the final version of SPP2 should be published in June 2014. BFL would wish to supplement its objection at that time in the light of SPP2.

43. Once the “no go” areas have been defined then it is straightforward to operate a clear criteria based policy but on the basis that it only applies outwith the protected areas. However, the policy approach that is set out in the Proposed Plan, with text covering two and a half pages, is full of platitudes, vagueness and phrases that provide no basis whatsoever for actually assessing policy compliance.
44. It is not considered to be a relevant task for an objector to forensically dissect the text and grammar of a proposed policy but a few examples will illustrate the concerns:
- The introductory two sentences are completely meaningless in terms of being applied to any particular proposal. The second sentence states “the siting, scale and design of all renewable energy developments should take account of the social, economic and environmental context”. An obvious question is the context of what? The application site, the applicant, the receiving community or something else. Generalised platitudes of this type should be utterly avoided in what is meant to be a criteria based policy to determine acceptability.
 - The text that follows under the heading of “Renewable Energy Developments” suffers from the same problem as above. Bullet point 1 refers to impacts being “fully mitigated” but bullet point 2 refers to “satisfactorily mitigated”. What is the difference and, indeed, is there meant to be a difference. However, having set out what are presumably intended to be negative tests the last sentence then allows the Council to approve proposals based on “wider economic and environmental benefits”. However, these benefits are not specified nor is there any guidance given as to how the presumed balance is to be applied – are the benefits, whatever they are, required to totally overwhelm the adverse effects or do they only need to just tip the balance. Again this sort of throw away remark type text is simply not appropriate in a criteria based planning policy

- Under “Wind Turbine Proposals” the spatial strategy maps are referred to as guidance – does that mean that they are to have no role in the determination of applications. That simply cannot be the case
- The policy then proceeds with a series of sub topics without, consistently explaining what they are or how the issue is to be addressed in the assessment of any proposal. The bullet points under “Landscape” are just statements in two out three, the key aspect of visual impact – minimal effects – is not defined in any way, under “Cumulative Impacts” some of the text is wrong in terms of the implied definitions and the third point here is a wonderful example of negative circular reasoning that is ultimately meaningless. The words used in the first bullet point under “Biodiversity” do not provide any form of policy test and the same applies to the remaining sub topics. BFL submits that the criteria tests, in each case, should be crystal clear as should the thresholds for acceptability of non acceptability. The current formulation of ED9 comprehensively fails in this regard. Therefore, BFL objects to the policy ED9
- There then follows a section of policy text which is to apply “in all cases” and requires developers to “demonstrate that they have considered options for minimising the operational impact of a turbine proposal” by way of reference to 8 criteria or considerations. However, it is unclear if the concept of options is to include alternative sites and/or alternative technologies. That aspect is potentially so important that it does need to be made absolutely clear. In addition, all of these criteria or considerations also feature in what it is assumed is meant to be the assessment criteria in the policy. If this is not meant to be an “alternatives” test then it is unclear what this aspect of the policy is directed at in terms of acceptability. BFL submits that this needs to be clarified

45. It is considered a matter of regret that a detailed objection needs to be made in respect of the approach to renewable energy in the Proposed Plan. There is no doubt that the Council has tried to learn from experience and it has made a very significant effort,

through commissioned studies, to draw together a sound and comprehensive evidence base. However, it has then failed to take all of this material and distil it into a simple, clear and coherent spatial strategy combined with a clear criteria based policy. As a result the proposed policy approach has not learned and applied the lessons from many of the issues reviewed in the first part of this objection submission.

Summary and Concluding Objection Submissions

46. The objectors anticipate assessing, commenting on, and objecting to renewable energy, mainly wind energy applications in the vicinity of their more sensitive landholdings that merit proper enhancement and protection in terms of planning policy. In doing so BFL wish to proceed with their own assessments and with the commissioning of external advice having regard to clear, precise and comprehensive topic specific policies. Such precision will, in turn, provide a high degree of confidence in predicting the outcome of applications. However, the general experience with renewable energy policies and projects throughout Scotland shows that the lack of precision in policy making leads to inconsistent and, sometimes, rogue decisions – whether refusals or permissions – thus undermining public and investor confidence in the planning system. That is the clear danger that will derive from the current vague and imprecise proposed LDP policy approach of the Council.
47. It is for this fundamental reason that this objection submission, and its associated criticism of policy, has been made.
48. What the objectors would prefer to see, fully contained in the LDP itself, is
- Spatial guidance that focusses on the precise definition and justification for areas to be afforded absolute protection from the significant effects of renewable energy proposals, and
 - A criteria based renewable energy and wind energy policy, to be applied to projects outwith those protected areas, that is comprehensive (with no need to look elsewhere in the LDP), clear and sufficiently precise, with clear thresholds of acceptability and with clear guidance on how the policy will actually be operated in practice

This would then better ensure that any informed and interested person, in looking at the assessed effects of a particular proposal in a particular location, would be able to form a reasonably certain assessment of whether the application would be approved or rejected. The current Proposed Plan approach comprehensively fails to meet these two straightforward requirements.

49. Until the Council brings forward proposed modifications to address these concerns this objection will be maintained.

[END]