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3rd March 2013

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

Our Ref: 405.04091.0001

Dear Sirs

RE: SCOTTISH BORDERS COUNCIL PROPOSED LOCAL DEVELOPMENT PLAN

SLR Consulting Ltd (SLR) is instructed by Wind Energy (Earlshaugh) Limited (WEEL) to make submissions to Scottish Borders Council in respect of the Scottish Borders Council Proposed Local Development Plan (SBCPLDP).

The following text identifies policies which WEEL wish to comment upon and provides a submission, on behalf of WEEL, in the context of each policy.

Policy PMD1 Sustainability

The aspirations of Policy PMD1 are supported by WEEL, however it must be recognised that many developments promoted in planning applications will not be able to meet all of the aspirations of this policy.

PMD 2 Development Standards

The aspirations of Policy PMD1 are supported by WEEL, however it must be recognised that many developments promoted in planning applications will not be able to meet all of the aspirations of this policy.

Policy ED9 Renewable Energy Development

Supporting text Para 1.2

It is noted that the supporting text in respect of Policy ED9 Renewable Energy Development advises that the aim of the policy is to support the development of renewable energy whilst ensuring that the impacts on the environment are properly controlled. This statement is welcomed. The clear identification of the up to date government target is also welcomed by WEEL.

Supporting text Para 1.3

It is noted that the start of para 1.3 makes no reference to general policy support for wind energy. Onshore wind is likely to be a primary means of meeting the targets and it is felt that not to include onshore wind energy as a development that will be supported by the policy is an omission. It is acknowledged that onshore wind energy is considered to be contentious,



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however some of the development types mentioned, for example energy from waste facilities, are also considered to be contentious.

Supporting text Para 1.6

It is noted that the supporting text refers to 3 key council productions that should be referred to along with Policy ED9. We have concerns in respect of these three documents as follows:

Supplementary Planning Guidance on Wind Energy May 2011 (2011 SPG).

It is noted that the intention is to prepare new Renewable Energy Supplementary Guidance (proposed RESG) and that the priority for this is B (Appendix 3). It is submitted that the Local Development Plan should refer to the proposed RESG and should not rely on the 2011 SPG for considering applications for wind energy.

The 2011 SPG has been prepared in accordance with the extant Development Plan and includes the policy of the now superseded Scottish Borders Consolidated Structure Plan 2001-2018 and the Scottish Borders Consolidated Local Plan 2011. It is considered that it is not appropriate to refer to the 2011 SPG in the Local Development Plan and that the priority of a of the proposed RESG should be changed from B to A. This would enable up-to-date guidance on renewable energy development to support policy ED9.

The 2011 SPG has been prepared in accordance with current Scottish Planning Policy (SPP), it is submitted that as SPP is currently being revised, the proposed RESG should be prepared in accordance with the revised SPP expected to be published in June 2014. It is noted that this is the intention as stated in the list of guidance following the policy.

Landscape Capacity and Cumulative Impact Study

This document has, as far as we are aware, not been the subject of consultation and therefore has not been challenged in respect of its conclusions and findings. This is considered to be a shortcoming which means that the use of it in informing planning decisions should be limited.

We are aware of some inaccuracies in the report including incorrect details in respect of some schemes.

There is reference in the Landscape Capacity and Cumulative Impact Study to a core area of wild land, it is understood that the wild land issue is currently being debated and as yet no areas of core wild land have been designated. These areas of core wild land are referred to in the emerging National Planning Framework 3 (NPF3) and the draft revisions SPP. The Minister for Local Government and Planning has been clear that the existing National Planning Framework 2 (NPF2) and SPP should be used until the emerging documents have been published, anticipated in June 2014. Neither the current SPP nor NPF2 refers to core areas of wild land. The Landscape Capacity and Cumulative Impact Study should, it is submitted, refer to the Search Areas for Wild Land as set out by SNH or it is submitted that it should reflect the outcome of the ongoing work.

WEEL have concerns over the analysis that has been undertaken in respect of a number of issues including natural barriers and capacity contours that are considered in the Ironside Farrar report.

Supplementary Planning Guidance on Landscape and Visual Guidance on Single and Small Groups of Wind Turbines in Berwickshire 2013

No comment is made in respect of Supplementary Planning Guidance on Landscape and Visual Guidance on Single and Small Groups of Wind Turbines in Berwickshire 2013.

Supporting text Paragraph 1.7

The document prepared by Scottish Borders Council identifying the changes from the consolidated Local Plan 2011 to the Proposed Local Development Plan 2013 advises that the change from D4 to ED9 is a revision to policy on wind energy that identifies landscape capacity as a primary consideration. It is therefore difficult to understand why the spatial strategy takes no cognisance of all landscape capacity considerations. It is submitted that the spatial strategy should have regard to landscape capacity as one of a number of issues, including ecology and ornithology, relating to potential constraints.

Figure ED9a

Given concerns expressed in respect of the use of the 2011 SPG, and the focus of policy ED9 on landscape capacity, it is submitted that this figure should be removed from the document.

Figures ED9b-e

These figures must be made available in GIS form to allow developers access to the information they contain and to define the boundaries of the areas of capacity and understand the reasons for the capacity designations.

It is considered that these figures should not define areas of no capacity. It is submitted that it would be more appropriate to refer to areas that potentially have no capacity.

The weight to be attached to these figures in the decision making process should be limited given the lack of consultation in respect of the Landscape Capacity and Cumulative Impact Study.

Policy ED9 Renewable Energy Development

The following text identifies the headings used in the Policy ED9 and provides a response in respect of the elements of the policy as drafted.

WEEL would like to express general support for the opening statement of Policy ED 9. SPP, paragraph 184, states that "*Development plans should support all scales of development associated with the generation of energy and heat from renewable sources, ensuring that an area's renewable energy potential is realised and optimised in a way that takes account of relevant economic, social, environmental and transport issues and maximises benefits.*" It is submitted that the introductory text of Policy ED9 should make it clear that the plan, as well as supporting renewable energy, seeks to realise the renewable energy potential of the Scottish Borders.

RENEWABLE ENERGY DEVELOPMENTS

It is noted that SPP, paragraph 187, is clear in the case of wind farms that, "*Planning authorities should support the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed.*" It is submitted that there should not be a requirement for full mitigation, the

policy should be reworded to reflect that any adverse significant impacts should be satisfactorily addressed, The balance, in the last paragraph of this section of the policy, to this effect should be altered as well as parts 1 and 2.

WIND TURBINE PROPOSALS

General

It is submitted that the scale of turbines in the landscape is considered to be important for the assessment of applications for wind farm development. However the use of a topology approach to define development potential in individual areas is considered to be unsatisfactory. For example it is difficult to see why a turbine of 103 m should only be allowed on one side of a line where a turbine of 99 m is allowed on both sides of the line. Please also see the comments made in respect of the Figures ED9a-9e, and their importance and weight to be attached to them.

It is clear in SPP para 1.90 that *“Development plans should recognise that the existence of these constraints on wind farm development does not impose a blanket restriction on development, and should be clear on the extent of constraints and the factors that should be satisfactorily addressed to enable development to take place.”* It is submitted that this requirement is not clear in the draft policy. The text should be modified to be clear that subject to reasonable assessment and the findings of that assessment, development of schemes out with the typology areas will be permitted.

Landscape

It is submitted that any commercial wind farm development will have a significant impact on the landscape character, especially in locations close to the proposed wind turbines. For some this will be perceived as detrimental. This should not in itself be a reason for the refusal of planning permission. The text should be reworded to refer to unacceptable significant impacts rather than detrimental.

The term “wild land” should be defined in the Local Development Plan. Wild land designations should not prohibit development, a wild land assessment should be undertaken in cases where wild land is considered to be relevant to the consideration of a planning application or an application made under Section 36 of the Electricity Act 1989. Given the current ongoing work and uncertainty in respect of wild land it is submitted that the final text should reflect the outcome of the ongoing work.

Visual Impact

It is submitted that the first bullet point should refer to a proper assessment of sensitivity of the receptor and the level of significance of the effects of the proposed development. It is assumed that the council mean that the assessment should take into account the distance between the development and receptor rather than developer and receptor.

There are many cases within Scotland where wind turbines are seen on prominent skylines, e.g. Dun Law. It will not always be possible or desirable to back cloth turbines and it is considered that the second bullet point of this section of the policy should be removed and replaced with a statement reflecting the need for good design appropriate to the location of the proposed development.

Cumulative Landscape and Visual Impacts

It is submitted that any commercial wind farm development will result in significant landscape and visual impacts. This cannot be avoided. These impacts may be as a result of cumulative development. The presence of such significant impacts should not in themselves be a reason for the refusal of planning permission. It is submitted that the focus should be on making such impacts acceptable.

This also appears to be a move away from the 'cluster and space' approach promoted in the 2011 SPG and by the Scottish Government and, to some extent, underpinning the Landscape Capacity and Cumulative Impact Study – particularly where the landscape strategy is one of accommodation to make or extend an area that could be termed a landscape with wind farms or even a wind farm landscape. If this is the intention of the policy it should be set out more clearly and the approach properly defined.

It is submitted that this section of the policy should be revised to require applicants to properly assess cumulative impacts of proposed developments both from agreed viewpoints and from routes such as long distance pathways.

Biodiversity

It should be clear that this criteria relates to international and national designations.

Historic Environment

It should be clear that this relates to designed national historic assets and not any form of historic asset. It is submitted that setting should be properly defined. It should be clear what the policy is relevant to with reference to listed buildings, conservation areas etc.

Other considerations

It is unclear why peat land should be protected from development. It is submitted that it is appropriate for a wind farm application to assess the impact on peat but that the presence of peat should not be a reason for refusal of planning permission. Please also see comments in respect of Policy ED10.

The issues identified as criteria 1 to 8 are all considered to be relevant to the consideration of applications for planning permission for wind farm developments. They are matters that should be assessed in the Environmental Impact Assessment works undertaken as part of the application process. It is submitted that the technical specifications of the turbines is a matter for the developer but that any proposed turbine must be able to operate within the terms of the Environmental Impact Assessment and any relevant planning conditions. For example in the case of noise the proposed turbine must be able to operate within the terms of any condition restricting noise emissions.

Policy ED10 Protection of Prime Quality Agricultural Land and Carbon Rich Soils

The presence of peat should not be a reason to refuse planning permission for a wind farm. It should refer to the need for a peat assessment and carbon calculations to be undertaken where wind farm development is proposed in areas where there is significant peat.

We trust that the above is self explanatory but should you have any questions please do not hesitate to contact Alison Sidgwick of this office direct. We should be grateful if you could acknowledge the timeous receipt of this submission.

Yours sincerely
SLR Consulting Limited



Alison Sidgwick
Principal Planner
CC Wind Energy (Earlshaugh) Limited