
SUPPLEMENTARY GUIDANCE RENEWABLE ENERGY

Report by Service Director Regulatory Services
SCOTTISH BORDERS COUNCIL

29 March 2018

1 PURPOSE AND SUMMARY

- 1.1 This report seeks the approval of Supplementary Guidance on Renewable Energy (Appendix 1).**
- 1.2 Scottish Borders Council Local Development Plan (LDP) was adopted on 12 May 2016. As recommended by the Directorate for Planning and Environmental Appeals following the Examination of the LDP, the LDP required the Council to produce Supplementary Guidance (SG) on Renewable Energy. The SG was approved by the Council on 22 December 2016 and was sent out for a 12 week public consultation.
- 1.3 The purpose of this report is to inform Members of the representations received following the public consultation and officers responses to the points raised.

2 RECOMMENDATIONS

- 2.1 I recommend that the Council:**
- a) Approves the Supplementary Guidance, as detailed in Appendix 1**
 - b) Note the representations received and responses within Appendix 2**
 - c) Note the Environmental Report**
 - d) Following Council approval agrees to forward the Supplementary Guidance to Scottish Ministers.**

3 BACKGROUND

- 3.1 National planning policy and guidance promotes and supports renewable energy to facilitate the transition to a low carbon economy. The Climate Change (Scotland) Act 2009 requires all public bodies to contribute to the emissions targets in the Act and to deliver the Government's climate change programme. The need to mitigate the causes of climate change and the need to adapt to its short and long term impacts should be taken into account in all decisions within the planning process. National Planning Framework 3 and Scottish Planning Policy (SPP) are supportive of promoting renewable energy and also identify the need to support other key sustainability principles of social, economic and environmental considerations.
- 3.2 Scottish Borders Council has been proactive in supporting a range of renewable energy types. In implementing statutory duties to support both renewable energy and protect the landscape and the environment, the Council seeks a balance between these objectives within the decision making process. This balance is particularly challenging when considering wind farm proposals. It is therefore vital that the Council has up to date Supplementary Guidance in place which takes cognisance of all relevant national and local policy advice and legislation in order that it can be used within the Development Management process and considered at Public Inquiries and Hearings.
- 3.3 Following the Examination of the proposed new Local Development Plan (LDP), as recommended by the Reporter, policy ED9 – Renewable Energy Development confirms Scottish Borders Council will produce this SG and submit it to Scottish Ministers within 12 months of the adoption of the new Plan.
- 3.4 Policy ED9 states that the SG will accord with Scottish Planning Policy (SPP) and should set out detailed policy considerations against which all proposals for wind energy and other forms of renewable energy will be assessed, based on those considerations set out in para 169 of SPP. The guidance on wind energy will contain the onshore spatial framework as required by SPP, identifying areas where wind farms will not be acceptable, areas of significant protection, areas with potential for wind farm development and indicating the minimum scale of onshore development that the framework applies to. The SG has taken cognisance of responses received during the public consultation.
- 3.5 At its meeting on 17 December 2015 the Council considered the Reporters' decision letter. Members ultimately agreed to accept the recommendations and the Plan was consequently referred to Scottish Ministers as part of the formal adoption process. Following formal adoption of the LDP work commenced on the production of the SG as required. As also agreed by Members on 17 December 2015 the Council wrote to the Chief Planner, Chief Reporter and the Chairman of the Planning Review Committee expressing serious concerns on the approach taken by the Reporter on Renewable Energy policy and Housing Land provision, and on the time taken to deliver the Examination Report. Following Council agreement work then commenced on the draft SG.

4 SUPPLEMENTARY GUIDANCE

- 4.1 The Council has existing Supplementary Planning Guidance (SPG) on Wind Energy 2011 and Renewable Energy 2007. Whilst these documents have given most useful guidance in practice, large parts of the documents are out of date. Consequently, it was agreed that this SG should be a single document which updates and encompasses both of the SPGs. The new SG is designed to be concise and easily navigated, making reference and expanding upon what are considered to be the salient matters to be addressed and giving electronic links to further information on specific subjects where required.
- 4.2 The SG makes reference to the requirements of National Planning Framework 3, SPP, the Strategic Development Plan 2013, the LDP and makes reference to other documents from a wide range of sources which are considered useful guidance for any interested party to refer to. The SG confirms that Scottish Borders Council supports the Scottish Government's promotion of sustainable development and moving towards a low carbon economy. The Council produced the Scottish Borders Low Carbon Economic Strategy 2023 in 2013 which sets out a series of strategic aims, initiatives and priority actions. The SG confirms the Council will continue to support renewable energy proposals within appropriate locations.
- 4.3 In terms of wind energy, the SG produces a spatial framework as required by SPP identifying areas where wind farms will not be acceptable, areas of significant protection and areas with potential for wind farm development. The SG incorporates an update of the Ironside Farrar Landscape Capacity and Cumulative Impact study July 2013 which was part of the formal consultation process. The study investigated the capacity of each of the Scottish Borders Landscape Character Areas to accommodate turbines taking cognisance of matters such as landform, approved turbines to date, impact on key receptors, the identification of opportunities and constraints and any cumulative impact issues. The SG also expands upon and gives useful guidance with regards to a number of Development Management considerations identified within both policy ED9 of the LDP and SPP.
- 4.4 Although wind energy is the main component part of the SG, reference is also given to a range of other types of renewable energy which are considered the most common and emerging types where useful guidance could be given. These other renewable energy types include micro-renewables including photovoltaic panels, field scale solar voltaics, biomass, energy from waste, anaerobic digestion, hydro and ground source heat pumps. For each of these energy types, reference is given to useful background information and good planning practice guidance.
- 4.5 An Environmental Report has been prepared alongside the draft SG. Hard copies of the Environmental Report and the SG, which includes the updated Ironside Farrar study, are available in the Member's Room. An Equalities Impact Assessment and Rural Proofing have also been undertaken.

4.6 The Council's recently adopted SG on Housing was subject to a Habitats Regulation Appraisal (HRA) in respect of the allocated housing sites. The HRA gave consideration to impacts and mitigation in respect of species and habitats within these formal allocations. However, this SG does not formally identify any definitive sites where turbines can or cannot be supported. Although a spatial framework has been produced as required by SPP which identifies areas where there is "potential for wind farms", these areas not definitive and consideration must also be given to the updated Ironside Farrar Landscape Capacity study 2016 which identifies only indicative site boundaries of where turbines may be able to be supported. Consequently an HRA cannot be provided in this instance nor indeed would produce any meaningful outputs. A screening opinion was produced by the Council which concluded this and Scottish Natural Heritage has agreed this stance. The screening opinion is incorporated within the Environmental Report. Obviously matters relating to any potential effects on habitats and species would be addressed on a case by case basis during the planning application process which would include reference to an accompanying Environmental Assessment.

5 PUBLIC CONSULTATION

5.1 Following approval of the draft SG at the meeting of the Council on 22 December 2016 the document was then sent out for a 12 week public consultation from 23 January to 17 April 2017. Following the public consultation period, a total of 33 responses were received from a range of bodies including the development industry, community councils and local interest groups. The responses covered a wide range of issues, often with many conflicting views, particularly on wind farms given the differing opinions on the subject. Summaries of the representations received and officer's consequent responses can be viewed in the responses table within Appendix 2 to this report. Appendix 2 confirms the representation issue and which party submitted it, the officer response and any consequent proposed amendments to the SG. Appendix 2 also includes comments received in response to the SEA.

5.2 A no of changes have been made to the SG following the public consultation. These include :

- An update of work regarding heat mapping as requested by Scottish Government.
- Safety issues regarding turbines and public routes will be considered on a case by case basis taking account of the status of the route, its condition and usage.
- More flexibility regarding decommissioning given the removal of roads and concrete bases of turbines may cause further environmental and biodiversity issues which have adapted and settled within the lifespan of turbines.
- Some minor amendments and further clarity on certain matters to the updated Ironside Farrar Landscape Capacity and Cumulative Impact Study 2016.
- Minor grammar changes, points made clearer, updated document references.

- Reference to the salient points within recently published Scottish Government documents in December 2017 on Onshore Wind Policy Statement and Scottish Energy Strategy : The Future of Energy in Scotland.

6 IMPLICATIONS

6.1 Financial

There are no substantive cost implications arising for the Council in respect of the Supplementary Guidance

6.2 Risk and Mitigations

As stated in para 3.3 the Council has a requirement to produce the SG following the Examination of the LDP, and therefore consideration of the risk of not providing the SG is not an option to be considered. Risk mitigation associated with the production of this SG are as follows :

- a) As detailed in Sections 5.1 and 5.2, part of the process of compiling this SG was the engagement with stakeholders through a public consultation to gather views on the proposed content. Comments were assessed and where appropriate the SG was amended. The full consultation is attached as Appendix 2 to this report and the transparency of this process mitigates the risk of failing to engage with stakeholders which could result in poor Guidance and opposition to the content of the Guidance after publication.
- b) The SG will be an up to date document which seeks to address the issues required by current national guidance which includes the development of an updated framework and the identification of a range of issues to be addressed by planning applications.
- c) If applications for wind turbines are refused by the Council in accordance with the SG, given the SG follows national planning guidance requirements this should strengthen the Council's position in terms of appeal decisions.
- d) The SG provides advice to applicants/developers on a wide range of issues, including good practice advice, giving applicants/developers a better awareness of all issues to be addressed within their application submissions.
- e) The SG should enable development management officers to provide clear guidance on wind farm related issues and considerations and process applications effectively and efficiently.

Although the SG suggests mitigation of risks associated with the development and planning process, Council should be aware that it is likely the parts of the SG will be challenged by third parties during the processing period of renewable energy planning applications.

6.3 Equalities

An Equalities Impact Assessment has been carried out on these proposals and it is anticipated that there are no adverse equality implications.

6.4 Acting Sustainably

- a) **Economic Growth**

The proposed will ensure economic benefits of renewable energy projects are acknowledged and given due weighting within the planning application decision making process.

b) **Social Cohesion**

The guidance contained within the SG identifies equal benefits across the Scottish Borders.

c) **Protection of the Environment**

The SG has been subject to environmental appraisal under the terms of the Environmental Assessment (Scotland) Act 2005. An Environmental Report has been prepared alongside the SG. The Environmental Report sets out a detailed assessment of the potential impacts of the proposals within the SG, and puts forward any necessary mitigation requirements.

6.5 **Carbon Management**

Any perceived carbon emission issues are identified within the SG and require necessary mitigation measures to be addressed.

6.6 **Rural Proofing**

The proposals within the SG have been subject to assessment, including rural impact.

6.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made.

7 CONSULTATION

7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, the Clerk to the Council have all been consulted and comments received have been incorporated into the final report.

Approved by

Brian Frater

Service Director, Regulatory Services

Signature

Author(s)

Name	Designation and Contact Number
Charles Johnston	Lead Planning Officer (Planning Policy and Access)

Background Papers:

- Full Council Committee Report, 22 December 2016

Previous Minute Reference: There had been circulated copies of a report by the Service Director Regulatory Services seeking approval of the draft Supplementary Guidance on Renewable Energy, a copy of which was appended to the report, as a basis for public consultation. The report explained that the Scottish Borders Council Local Development Plan (LDP) was adopted on 12 May 2016. As recommended by the Directorate for Planning and Environmental Appeals following the Examination of the LDP, the LDP required the Council to

produce Supplementary Guidance (SG) on Renewable Energy. A draft SG had now been produced that provided planning guidance on a wide range of renewable technologies. Although wind energy was the main component part of the SG, reference was also given to a range of other types of renewable energy which were considered the most common and emerging types where useful guidance could be given. It was proposed that the draft SG be approved for public consultation for a period of 12 weeks. Following public consultation, a report would be brought back to a future meeting of the Scottish Borders Council to seek final agreement. Once agreed the SG would be referred to Scottish Ministers and on approval it would become part of the Development Plan. It was noted that presentations on the Draft SG would be made at each of the Area Forums.

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Environment and Infrastructure, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk