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## **DRAFT SUPPLEMENTARY GUIDANCE: RENEWABLE ENERGY**

**Report by Service Director Regulatory Services**

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### **SCOTTISH BORDERS COUNCIL**

**22 December 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report seeks Council approval of the draft Supplementary Guidance on Renewable Energy (in Appendix A) as a basis for public consultation.**
- 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. A draft SG has now been produced that provides planning guidance on a wide range of renewable technologies as referred to in part 4 of this report.
- 1.3 The Council is asked to agree the draft SG with a view to carrying out a public consultation. It is proposed that the draft SG is subject to public consultation for a period of 12 weeks.
- 1.4 Following public consultation, a report will be brought back to a future meeting of the Scottish Borders Council to seek final agreement. Once the Council agrees the SG it will be referred to Scottish Ministers and on approval it will become part of the Development Plan.

#### **2 RECOMMENDATIONS**

##### **2.1 I recommend that the Council:**

- a) approves the Draft Supplementary Guidance: Renewable Energy and its appendices as a basis for public consultation**
- b) notes the Environmental Report**
- c) agrees to receive a further report following consultation for formal agreement of the Guidance**

### **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 will take 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.

## **4 THE 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 With regards to renewable energy, 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. An update of the Ironside Farrar Landscape Capacity and Cumulative Impact study July 2013 was carried out. This is an appendix to the SG and is 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 with 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. A hard copy of the Environmental Report is available in the Member's Room. Furthermore, an Equalities Impact Assessment and Rural Proofing have also been undertaken.

- 4.6 It is proposed that the draft SG is subject to public consultation for a period of 12 weeks. Following consultation, the SG will be referred back to the Scottish Borders Council. Members should note that once the SG is approved for consultation it requires to be printed and sent out to a considerable number of consultee parties. It is therefore envisaged the consultation will take place the first week in the new year. Once the consultation period closes all representations must be considered and responded to, making any relevant changes to the document. It is therefore envisaged that a likely timeframe for referral back to the full Council would be summer 2017.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no substantive cost implications arising for the Council. There is budget to cover the necessary consultation elements.

### **5.2 Risk and Mitigations**

The key risks are considered to be:

#### Risk of not providing guidance

- (i) Failure to produce this SG would result in an outdated SPG which would not address the issues required by national guidance which includes the development of an updated framework and the identification of a range of issues to be addressed by planning applications.
- (ii) 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. There is a risk that failing to produce this SG will lose this opportunity.
- (iii) There is a risk that in failing to produce this SG, the Council will lose the opportunity to provide guidance on a wide range of issues and good practice advice to applicants / developers. The production of such advice would result in applicants / developers having a better awareness of all issues to be addressed within their application submissions
- (iv) There is a risk that in failing to produce this SG, the Council will lose the opportunity to provide development management officers with an improved and clearer guidance on wind farm related issues and considerations which should improve application processing times.

### Risk of providing guidance

There are no perceived risks related to the adoption of the guidance by the Council.

#### **5.3 Equalities**

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

#### **5.4 Acting Sustainably**

The SG has been subject to environmental appraisal under the terms of the Environmental Assessment (Scotland) Act 2005. An Environmental Report (ER) 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.

#### **5.5 Carbon Management**

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

#### **5.6 Rural Proofing**

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

#### **5.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

## **6 CONSULTATION**

6.1 In developing the draft SG a number of relevant internal and external parties have been consulted. The Forward Planning team has also had a meeting with representatives from the Scottish Government regarding the draft and has made relevant consequent changes. The next phase will include public consultation.

6.2 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director Strategy & Policy, the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council have been consulted and any comments received have been incorporated in the final report.

### **Approved by**

**Service Director, Regulatory Services**

**Signature .....**

**Author(s)**

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

**Background Papers:** None

**Previous Minute Reference:** Scottish Borders Council, 17 December 2015

**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](mailto:eitranslationrequest@scotborders.gov.uk)