

PROPOSED ABERDEENSHIRE LOCAL DEVELOPMENT PLAN 2020

This document sets out Scottish Renewables' response to the Proposed Aberdeenshire Local Development Plan (LDP) 2020 consultation.

We would encourage the council to consider our comments alongside Scottish Renewables' Position Statement on National Planning Framework 4 (NPF4)¹, as well as our Supplementary Papers on Climate Change and Deployment Targets², Landscape Capacity v Sensitivity Studies³, Spatial Planning⁴ and Peat and Carbon Rich Soils⁵. These are relevant to the proposals in the LDP, specifically the policies relating to renewables.

Section 7 – 'Shaping Development in the Countryside', various policies and associated text

Policy R1 'Special Rural Areas' and Policy R2 'Development Proposals Elsewhere in the Countryside'

It is likely that further large scale renewable energy developments will come forward for consideration under the Proposed LDP, and many of these will be large scale developments involving a range of technologies, such as onshore wind, solar and large-scale battery storage.

These will likely be in countryside locations and it is important this is acknowledged in the Proposed LDP. As currently worded, neither Policy R1 or Policy R2 make any provision for the possible location of such developments. It is important that policies R1 and R2 are amended such that renewable energy proposals are identified as potentially acceptable land uses in the countryside and special rural areas, subject to compliance with other detailed policy requirements, and to recognise the relationship between these policies and renewable energy policies (such as Policy C2).

Policy R3 'Minerals'

Policy R3 has been drafted for the purposes of considering large scale stand-alone commercial mineral extraction sites; these policy requirements should not apply where a borrow pit to supply aggregate is proposed as an integral part of another development (e.g. an onshore wind farm). The impacts of such borrow pits will be considered as part of a wide range of issues in the context of that other development (e.g. as set out in paragraph 169 of Scottish Planning Policy (SPP)).

Policy R4 'Hill Tracks'

For the same reasons as discussed in relation to Policy R3 above, this policy is not applicable to the consideration of renewable energy proposals. Onshore wind farms require networks of access tracks for

¹ <https://www.scottishrenewables.com/publications/560-sr-position-statement-on-npf4>

² <https://www.scottishrenewables.com/publications/623-sr-npf4-supplementary-position-statement-cc-and-deployment-targets>

³ <https://www.scottishrenewables.com/publications/621-sr-npf4-supplementary-position-statement-lcs-v-lss>

⁴ <https://www.scottishrenewables.com/publications/622-sr-npf4-supplementary-position-statement-spatial-planning-for-onshore-wind>

⁵ <https://www.scottishrenewables.com/publications/618-sr-npf4-supplementary-position-statement-peat-and-carbon-rich-soils>

construction and maintenance purposes. These tracks should be considered as part of a wider range of issues in the context of these renewable energy proposals (e.g. as set out in paragraph 169 of SPP).

Section 10 ‘Natural Heritage and Landscape’ - various policies and associated text

Policy E1.6 ‘Protected Species’

This policy states that ‘development must seek to avoid any detrimental impact on protected species’.

There are differing scales of legislative protection given to different protected species. As noted by paragraph 214 (Protected Species) of SPP "*The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application.*". The wording of this policy should refer to the relevant statutory protections and development proposals being designed and determined in accordance with those protections. For the avoidance of doubt, the term ‘protected species’ should also be defined as this differs depending on the context.

Section 11 ‘The Historic Environment’ - various policies and associated text.

Policy HE1 ‘Protecting Listed Buildings, Scheduled Monuments and Archaeological Sites (including other historic buildings)

Policy HE1 applies to various forms of the historic environment as noted above.

Policy HE1.1 introduces a very strict protection measure stating that the Council ‘will not allow development that would have a negative effect’ upon the identified heritage resources, irrespective of how minor that effect could be in EIA terms. If retained (see below), an ‘acceptability’ test should be incorporated into this policy.

The Proposed LDP policies which relate to the historic environment should be reviewed against SPP and amended to ensure consistency with national policy. Policy HE1.1 is a generic policy which applies to all historic assets, and it could be argued that this unnecessary as there are other stand-alone policies that deal with specific historic assets. This is particularly so given the inconsistencies between SPP, policy HE1.1 and other policies.

Policies HE1.5 and HE1.6 ‘Scheduled Monuments and Archaeological Sites’

Policies HE1.1, HE1.5 and HE1.6 relate directly to Scheduled Monuments and are therefore relevant to the assessment of applications affecting these assets. If the Council is to retain policy HE1.1, it is essential that it and other policies dealing with specific named assets are consistent.

Policy HE1.5 states that development that "impacts on the setting" of Scheduled Monuments will only be allowed if there are "*imperative reasons of overriding public interest*".

In line with SPP, the policy test should only be engaged by "impacts on the integrity of the setting", not just any impact on setting.

Further, the ‘imperative reasons of overriding public interest’ (IROPI) test is one that is set out in the Habitats and Wild Birds Directive and associated domestic legislation, and applies specifically to the assessment of plans or projects that would be likely to have a significant effect on European designated sites, either alone or in combination with other plans or projects. The Habitats Directive operates separately from the planning regime.

If IROPI was a test that was to be applied to the determination of planning applications, provision would need to be made for this in the Planning Acts.

For example, the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 sets out the approach that must be taken to the assessment of applications that affect those cultural heritage assets. If this level of protection (or higher) is to be afforded to other cultural heritage assets then this is a matter for legislation, not local plan policy.

Policy HE 1.5 seeks to import assessment criteria from a separate statutory regime, and impose a standard that goes beyond what is provided for in the Planning Acts.

To ensure consistency with legislation relating to heritage assets and SPP, the historic environment policies should be amended (and/or HE1.1 deleted entirely). This would provide much need clarity for developers, the Council and other stakeholders about which policies apply, how they are to be applied and would avoid potential confusion in planning application submissions and/or at planning appeals.

Section 12 ‘Protecting Resources’

Amendments to various policies are considered necessary to ensure policies do not introduce unnecessarily high policy hurdles and there is consistency between policies.

Comments in respect of these policies should be read in conjunction with comments on Section 13 of the Proposed LDP, particularly comments on Policy C3 ‘Carbon Sinks and Stores’

Policy PR1 ‘Protecting Important Resources’

Policy PR1.1 states that the Council will not approve developments that have a negative effect on important environmental resources associated with air quality, the water environment, important mineral deposits, peat and carbon rich soils etc.

While it is recognised that the second part of this policy identifies a scenario where developments may be permitted, the requirement to demonstrate that ‘there are no reasonable alternative sites’ is excessive and unwarranted. The effect of the Policy is that even in those cases where the economic or social benefits clearly outweigh any negative effects, permission will still be refused unless there are no reasonable alternatives. If the benefits of a proposal outweigh its impacts then those projects should not be refused planning permission. The need to demonstrate no reasonable alternatives should not be an additional test. Policy PR1.1 as currently worded sets a clear course for refusing permission, unless there are no reasonable alternative sites, or endless legal challenges if permission is granted.

Policy PR1.2 ‘Air Quality’ refers to new developments not having ‘significant adverse impacts’. ‘Significant adverse impacts’ can still be deemed acceptable as part of the planning process, and the addition of ‘unacceptable’ to this policy would enable a balancing exercise to be carried out by the decision-maker.

There is a further issue with Policy PR1.1 relating to its inconsistency with Table 1 of SPP, particularly as it relates to peat and carbon rich soils. In Table 1 of SPP these resources are a Group 2 interest. SPP states that developers must demonstrate that any significant effects on the qualities of these areas can be ‘substantially overcome by siting, design or other mitigation’. SPP therefore recognises that the key test is whether negative

effects these can be 'substantially overcome'. Policy PR1.1 therefore sets a much higher test than SPP and one that is not warranted.

Policy PR1.1 is not a renewables specific policy and it is important that any changes made to the policy recognise that the primary point of assessment is against the renewables/wind energy policies of the LDP.

Scottish Renewables therefore recommends that Policy PR1.1 is amended to address these points. In particular, reference to the need to demonstrate that there are no alternative sites should be deleted, as too should the reference to the acceptability of impacts.

Policy PR1.10 'Peat and carbon rich soils'

Policy PR1.10 is unnecessary as it simply refers to Policy C3 and notes that these resources are protected under that policy yet fails to mention that these resources are also protected under Policy PR1.1.

Policy PR1.10 should be deleted as it unnecessary and does not provide any basis for assessing applications.