

PP0736



Planning Policy Team
Infrastructure Services
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

29th of July 2020

By email only to ldp@aberdeenshire.gov.uk

Dear Sir/Madam,

**Ref: Aberdeenshire Council Proposed Local Development Plan 2020
Consultation Response**

In September last year, the ‘new RWE’ was launched including RWE Renewables, incorporating the renewable energy assets of E.ON Climate & Renewables and, from 1 July 2020, the assets of innogy Renewables UK – making RWE one of the world’s leading renewable energy companies; the world’s second largest offshore wind developer and Europe’s third largest provider of renewable electricity.

RWE Renewables is part of the RWE Group. Across the UK, RWE employs around 2,000 people and generates over 10% of the UK’s electricity needs, a figure expected to grow with portfolio expansion. RWE has committed to being carbon neutral by 2040 with future plans including further significant investment in both offshore and onshore wind, solar and storage technologies. By 2022, RWE is committed to investing at least €5bn net globally in the continued expansion of renewable energy – with the UK a key focus for investment.

General Observations

Legislative and Policy Context

The Proposed LDP does not mention the Scottish Government’s declared ‘climate emergency’, nor the Scottish Government’s 2045 net-zero greenhouse gas emissions target. These are significant statements and legally binding commitments from the Scottish Government that must be central to planning policy and reflected in the Proposed LDP.

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Overarching Point: LDP Policies

An Environmental Impact Assessment (EIA) Report submitted alongside a planning application may identify 'significant' environmental effects. A significant effect in EIA terms does not make a proposal unacceptable in land use policy terms.

A common theme throughout the Proposed LDP is that some policies are discussed in terms of the 'acceptability' of environmental effects, whereas others are not. This introduces inconsistency across policies and sets different 'bars' for impacts on different receptors. To ensure consistency throughout the Proposed LDP, the wording of policies should be amended to include reference to 'acceptability' which would allow the decision maker to exercise a degree of judgement in applying policy.

As an overarching point, the wording of all Proposed LDP policies should also be reviewed in detail and amended to ensure consistency with Scottish Planning Policy ((SPP) and to ensure that the correct policy test is applied to each topic.

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, including onshore wind and large-scale battery storage which will likely be located in rural locations. As currently worded, neither Policy R1 or Policy R2 make any provision for the possible location of such developments. Policies R1 and R2 should be amended such that renewable energy proposals are identified as potentially acceptable land uses within 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 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

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onshore wind farm). The impacts of borrow pits associated with onshore wind farms will be considered as part of a wide range of issues e.g. as set out in paragraph 169 of 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 construction and maintenance purposes. These tracks should be considered as part of a wider range of policy requirements 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’. Unlike policies E1.1 – E1.5, this policy does not introduce an ‘acceptability’ test. The introduction of ‘unacceptable’ into the policy would allow the decision maker to exercise a greater degree of judgement in applying this policy that is reflective of the differing scale of legislative protection given to different protected species, as noted by paragraph 214 of SPP. It would also bring the wording of this policy into line with other policies in this Section of the Proposed LDP, such as E1.1. For the avoidance of doubt, the term ‘protected species’ should also be defined as this differs depending on the context.

The relationship between policy E1.6, other general policies, and renewable energy policies needs to be consistent. For example, Policy C2.2 ‘Wind Energy’ states that the Council will approve wind farms where they ‘avoid unacceptable environmental effects’.

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

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

The Proposed LDP policies which relate to the historic environment should all be carefully 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 it is 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 in the Proposed LDP.

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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. There is no scenario under which Policy HE1.1 would enable the Council to approve a development that has a negative effect (*no matter how minor in EIA terms*) upon identified resources. If retained (see below), an ‘acceptability’ test should be incorporated into this policy.

Policies HE1.5 and 1.6 ‘Scheduled Monuments and Archaeological Sites’

Policies HE1.1, HE1.5 and HE1.6 relate directly to Scheduled Monuments. If the Council is to retain policy HE1.1 (see above), it is imperative 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*’. It is inappropriate to apply the ‘imperative reasons of overriding public interest’ (IROPI) test to cultural heritage assets. IROPI is a specific test set out in the Habitats and Wild Birds Directive to assess the impact 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. IROPI is not a test that should be applied to cultural heritage assets and the Council should seek legal advice on the appropriateness of this wording.

To ensure consistency with 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’

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. Policy PR1.1 as currently worded sets a clear course for refusing permission, unless there are no reasonable alternative sites.

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Policy PR1.2 'Air Quality' refers to new developments not having 'significant adverse impacts'. 'Significant adverse impacts' in EIA terms can still be deemed acceptable as part of the planning process (see above), 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 SPP Table 1, particularly as it relates to peat and carbon rich soils. SPP Table 1 identifies these resources as a Group 2 interest and 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'. The key test is therefore whether negative effects can be 'substantially overcome'. Policy PR1.1 applies a much higher test than SPP and one that is not considered to be warranted.

Policy PR1.1 is not a renewables specific policy and it should be recognised in this policy that the primary point of assessment for renewable energy projects is against the renewables/wind energy policies of the LDP. Policy PR1.1 should be amended to firstly remove reference to the need to demonstrate that there are no alternative sites and also to make reference to the acceptability of impacts.

Policy PR1.10 'Peat and carbon rich soils'

Policy PR1.10 seems unnecessary as it simply refers to Policy C3 and notes that these resources are protected under that policy; it also 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.

Section 13 'Climate Change'

Suggested changes to policies to ensure consistency with SPP, Scottish Government targets and other policies of the Proposed LDP.

Policy C2 'Renewable Energy'

The statement in Policy C2.1 that the Council will support further applications for renewable energy developments where these are appropriately located and sized is welcomed. However, it is disappointing to note that the Proposed LDP makes no reference to the climate emergency or Scotland's legally binding 2045 net-zero target. There is a concern therefore that the renewable energy policies do not adequately reflect the severity of the climate emergency or the importance of the planning system in helping to achieve the net-zero target.

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Section 13 of the Proposed LDP and individual policies should be updated to reflect these key issues.

Policy C2.2 'Wind Energy'

This is the main policy against which wind energy proposals will be assessed and the statement in the policy that the Council 'will approve' further wind development in appropriate locations. There are however concerns with the detailed implementation of this policy, as follows.

Firstly, this policy does not contain a set of criteria against which the Council will assess wind farm applications. As stated above, there is some uncertainty about which other Proposed LDP policies would be applicable to the assessment of a wind energy application and clarity is required in Policy C2.2, to ensure there is no uncertainty on this issue. Policy C2.2 should cross refer to SPP paragraph 169, which provides a list of assessment criteria to assess renewable energy applications, or be amended to include a list of assessment criteria. Any cross reference with other Proposed LDP policies (see comments on policies PR1.1, R3 and R4 as examples of where clarification is required) should also be noted.

Secondly, RWE Renewables UK Ltd has significant concerns over the reference to the 2014 Strategic Landscape Capacity Assessment for Wind Energy in Policy C2.2 and its potential role in the assessment of future applications, and disagrees with the comment in the policy that this document remains relevant, even for the larger turbines now proposed. This statement categorically fails to take into account the significant legislative and regulatory changes which have occurred since 2014 (as detailed above).

The Executive Summary of the 2014 Capacity Study states that 'the assessment has determined that there are no areas of Aberdeenshire suitable for extensive windfarms with large turbines'. Given that the Capacity Study defines large turbines as 80m+ and very large turbines as 125m+ (Section 6.2.1), this statement is concerning. We would argue that this document cannot provide a suitably positive framework to assess future applications, as it has already determined there is no scope for large turbines.

The Capacity Study was published in March 2014. As set out above, renewable energy and greenhouse gas emissions reduction targets have changed substantially in the interim period, and there is now a demonstrably greater need for further renewable energy than there was in 2014. It is a document that must now be treated with caution given the significant change in the energy policy landscape in the intervening period, the change in the cumulative situation (there have been 184 wind turbines consented or built since 2014) and the change in the scale of turbine technology.

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The Capacity Study does not form part of the Development Plan. By contrast, the spatial framework (page 86) does and this follows the Spatial Framework approach set out in SPP Table 1. Policy C2.2 should be amended to remove reference to the Capacity Study and provide greater emphasis to the Spatial Framework.

RWE Renewables UK Ltd note that the Spatial Framework Map itself (page 86), identifies 'areas with strategic capacity for wind turbine development', as required by paragraph 162 of SPP. This Spatial Framework is identical to the Spatial Framework in the current LDP and clarity on the source of this strategic capacity would be useful.

The identification of large areas of strategic capacity for wind turbine development in the Spatial Framework Map, while welcome in principle, does exacerbate the problem of referring to the 2014 Capacity Study as a basis to assess wind energy applications against Policy C2.2. As noted above, that document states that there are 'no areas of Aberdeenshire suitable for extensive windfarms with large turbines'. This statement conflicts with the identification of large areas of strategic capacity on the Spatial Framework Map and highlights the issues all stakeholders will face when trying to reconcile these very different stances on the capacity for future wind energy development in Aberdeenshire.

Policy C2.3 'Wind Energy'

Policy C2.3 does not set out the Council's position on repowering and lifetime extensions. Given that these types of applications, as well as physical extensions, are likely to be increasingly common over the lifetime of the Proposed LDP, Policy C2.3 should be amended to clearly set out the Council's 'in principle' support for such applications. This would be consistent with the Onshore Wind Policy Statement (2017) and would help ensure that the Proposed LDP creates a positive policy context to help address the climate emergency and net-zero target. It should be noted that lifetime extensions may simply include an extension in operating time (without any changes to existing infrastructure) and we suggest that this wording is amended accordingly.

With reference to the sentence 'Existing bases should be reused', RWE Renewables UK Ltd suggest that this should be amended to include the wording 'where possible'. Whilst every effort will be made to reuse existing infrastructure, it is unreasonable to stipulate this as a policy requirement as it is not possible to reuse existing bases due to turbine foundations being of a bespoke design to suit the specific turbine model.

Policy C3 'Carbon Sinks and Stores'

This policy states that the Council will protect carbon sinks and stores from disturbance or destruction. These resources also benefit from protection under Policies PR1.1 and

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PR1.10, albeit not consistently. As currently worded, this policy is also not consistent with SPP, which groups carbon rich soils as a Group 2 interest in terms of the SPP Spatial Framework. SPP states that any significant effects upon these interests should be 'substantially overcome'. This is a different and less stringent test than that set by Policy C3, which states that these resources will be protected from 'disturbance or destruction'. Policies PR1.1, PR1.10 and C3 should be reviewed and amended to bring them into line with SPP (where they relate to wind farm developments) and also to ensure they are consistent with each other.

We trust that you will take the above points into consideration.

Yours sincerely,



Development Project Manager
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