



# Caithness Windfarm Information Forum

[www.caithnesswindfarms.co.uk](http://www.caithnesswindfarms.co.uk)

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16<sup>th</sup> November 2011

Morag I Smith  
The Scottish Government  
Directorate for Planning and Environmental Appeals  
4 The Courtyard  
Callendar Business Park  
FALKIRK  
FK1 1XR

Dear Morag,

**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING) (SCOTLAND) REGULATIONS 2008  
HIGHLAND COUNCIL – HIGHLAND-WIDE LOCAL DEVELOPMENT PLAN  
ISSUE 68: RENEWABLE ENERGY DEVELOPMENTS**

Thank you for sorting out the earlier confusion and formally inviting CWIF to respond to the Reporters' further information request.

While CWIF welcomes this opportunity, CWIF remains deeply concerned that only those who responded or objected to the terms of proposed Policy 68 are being given this opportunity whilst those who would undoubtedly have objected, and very strongly (myself included) had the present proposal been included in the consultation document, are excluded from comment. If Highland Council persists in its proposed amendment then at the very least this element of the Proposed Plan should go out again to Public Consultation.

Attached to this response is a copy of a letter sent to Highland Council which sets out CWIF's position on the Council's completely inappropriate response to a simple request from DPEA on clarification of a procedure, and forms part of our response.

The protection of residential amenity incorporated in SPP6 said developments would not be permitted which had a long-term significant detrimental impact on the amenity of people living nearby. This was reduced to a requirement in SPP to simply consider long term and significant impact, not to avoid or provide protection from it. The HWLDP reinstated a measure of protection of residential amenity and that is what the people of Highland, and the elected Members of Highland Council, believe to be in the Development Plan.

Highland Council's latest proposal is ill considered and contrary to the stated position of Scottish Ministers that only appropriate developments are permitted.

The Scottish Government has a duty to protect the well-being of Scotland's people and DPEA must rule the Council's response to be inadmissible and invite an appropriate response to the original simple question – "how will you weight the criteria?"

Yours faithfully,



Stuart Young  
Chairman

cc Chief Executive, Highland Council  
Director of Planning and Development, Highland Council

enc.



# Caithness Windfarm Information Forum

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16<sup>th</sup> November 2010

Alistair Dodds, Chief Executive  
The Highland Council  
Glenurquhart Road  
INVERNESS  
IV3 5NX

Dear Sir

## **THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING) (SCOTLAND) REGULATIONS 2008 HIGHLAND COUNCIL – HIGHLAND-WIDE LOCAL DEVELOPMENT PLAN ISSUE 68: RENEWABLE ENERGY DEVELOPMENTS**

CWIF has been invited to make a further written response to DPEA in respect of the Highland-wide Local Development Plan arising from DPEA's letter of 5<sup>th</sup> September 2011 and THC response of 18<sup>th</sup> October 2011 in respect of Proposed Policy 68, both documents attached along with CWIF's response.

The specific issue which concerns us is in respect of the DPEA paragraph "**Significant detriment/balance and weight**". The Reporters ask simply that THC explain how the weight allocated to 12 factors which should not be subject to significant detriment is assessed when balanced against factors of significant benefit.

THC's response states that "In Policy 68 the "significant detriment" test applies to the overall assessment of the proposal. It is not in respect of each individual interest listed in the policy."

Policy 68 states:

22.2

22.2.1 Renewable energy development proposals should be well related to the source of the primary renewable resources that are needed for their operation. The Council will also consider:

- the contribution of the proposed development towards meeting renewable energy generation targets; and
- any positive or negative effects it is likely to have on the local and national economy;

and will assess proposals against other policies of the *Development Plan*, the Highland Renewable Energy Strategy & Planning Guidelines and where appropriate the On-Shore Wind Energy *Supplementary Guidance* and have regard to any other *material considerations*.

Subject to these considerations and taking into account any *mitigation* measures to be included, the Council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental, either individually or *cumulatively* with other developments (see Glossary), *having regard in particular to any significant effects on the following:*

(Amongst other things - CWIF)

- community amenity at sensitive locations including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary);
- the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;

Note the phrase “having regard in particular ....”. The policy is crystal clear. If the proposal is significantly detrimental in respect of any of the 12 listed criteria, then it will not be supported by THC. The policy does not in any way suggest that if a significantly detrimental situation occurs, its impact will be added to all other impacts and the average outcome will be accepted. The assessment of “significant detriment” is of course a matter to be considered on a case by case basis, but when it occurs, THC policy is that it will not support the proposal.

THC vigorously defends its use of the phrase “significant detriment” in its response to the Schedule 4 statements in respect of issue 68, as follows:

**Significant Detriment**

The term “significantly detrimental” should remain in the policy. This is the term that is used in Policy 29 Sustainable Design in the Plan and also in the current [Highland Structure Plan](#) in Policy E2 Wind Energy Developments (see Part Two: Economy). The term usefully indicates a test of whether development will result in ‘harm’ to the various resources, etc. in respect of which policy 68 requires assessment. In that way the term is more useful than the alternatives suggested by representors, which are less precise and merely suggestive of some degree of negative impact. This part of Policy 68 and its supporting text does not require any change.

THC’s response to the DPEA request for clarification of how the criteria are weighted flies in the face of its Proposed Policy, introduces a change which has not been consulted upon nor put to Members for consideration, and may even be illegal.

CWIF considers that it was an ill-judged response which if it is adopted will make it impossible for THC to defend a decision by Members to reject a proposal which has for example an extremely significant detrimental impact in one single respect which merits refusal on those grounds alone.

CWIF objects in the strongest possible terms to THC’s response and asks that THC retract that response and provide another which accords with the consultation document and the clear wishes of Members who allowed it to go forward as written.

Yours faithfully,



Stuart Young  
Chairman

cc Dr Stuart Black

enc.

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Brian MacKenzie  
Principal Planner  
Development Plans Team  
The Highland Council  
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Our ref: LDP-270-3/24

5 September 2011

Dear Mr McKenzie

**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING)  
(SCOTLAND) REGULATIONS 2008  
HIGHLAND COUNCIL – HIGHLAND WIDE LOCAL DEVELOPMENT PLAN  
NOTICE: REQUEST FOR FURTHER INFORMATION**

I am writing regarding Highland Wide Local Development Plan which has been submitted to DPEA for examination by Scottish Ministers. Under Regulation 22 of the Town and Country Planning (Development Planning)(Scotland) Regulations 2008 the appointed reporters can request, by way of notice, further information in connection with the examination. This letter is a notice under Regulation 22.

The reporters have identified that further information, as listed below, should be provided by the Highland Council. It would be helpful if you could send this information to me, to pass on to the reporter, by 19 September 2011.

Issue 69 "Community" Renewable Energy Developments

In relation to the Mountaineering Council of Scotland's representation, the reporter has the following questions:

1. The proposed relaxation relates only to amenity. Looking at the bullet points in policy 68, would amenity cover visual amenity, residential amenity, and the amenity of public access routes? Would it also cover landscape character, noise, shadow flicker, and shadow throw? Are any other types of amenity to be covered?

2. What constitutes a community? What constitutes a separate community? For example, on a small island, would the community be the whole island or would each settlement constitute a community? How widely would a community's area be drawn?
3. How does the council respond to the Assynt case cited by MCofS?
4. Is the MCofS correct in asserting that renewable developments even at a small scale rarely impact only on one defined community?

Please acknowledge receipt of this letter and confirm that it and, in due course, the council's responses, have been posted on the council's website. Please do not hesitate to contact me if there is anything you would like to clarify.

Yours sincerely

*Morag I Smith*

**Morag I Smith**  
**Development Plan Assistant**



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Department of Planning and  
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E-Mail: brian.mackenzie@highland.gov.uk  
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Our Ref: HWLDP-EX1:17  
Your Ref: LDP-270-3  
Date: 18 October, 2011

Dear Ms Smith,

**HIGHLAND WIDE LOCAL PLAN - REQUEST FOR FURTHER INFORMATION – ISSUE 68  
RENEWABLE ENERGY DEVELOPMENTS**

In reference to the reporters request for further information regarding the above issue the Council offer the following response;

**Supplementary guidance**

It is not the Council's intention to re-adopt the Highland Renewable Energy Strategy and Planning Guidelines (2006) as statutory supplementary guidance. Therefore the main principles of the strategy and guidelines do not require to be stated within the policy. However, it is intended that parts of the strategy and guidelines will remain relevant and will continue as non-statutory supplementary planning guidance, subject if necessary to the Council clarifying which parts of the strategy and guidelines document this will apply to and what the up-to-date development plan context is. Given that it is not currently part of the development plan and it is not intended to make it so, the finalisation of the Plan is not dependent upon providing such clarification.

**Renewable energy technologies**

For the avoidance of doubt, it is not the Council's intention to adopt the North Highland Vision itself as supplementary guidance. With respect to preparation of any necessary associated Supplementary Guidance, the Council has already provided the Reporters with further information in respect of this in the context of Policy 42 Business and Industrial Land (see Council's letter dated 14 September 2011). In respect of Policy 68 and its supporting text, no further reference is required beyond that already commended to the Reporter in the Schedule 4.

**Community benefit and economic effects**

The Council is of the view that the content of paragraph 22.1.7 of the Plan is correctly placed within the document, because it is providing clarity in respect of different types of benefit to the community. Furthermore, whilst the Environmental Statement may well provide sufficient information about the socio-economic effects of the development, there is a lack of specific national guidelines or requirements in respect of the assessment of socio-economics within Environmental Impact Assessment, the socio-economic content of Environmental Statements can be variable in its detail and completeness, it may include coverage of certain aspects of community benefit that are not material considerations and it generally will not contain commercially sensitive information.

However, the Council now considers that paragraph 22.1.7 would benefit from clarification and it is therefore suggested that it be reworded as follows:

*"The Council will expect developments to benefit the local community and contribute to the wellbeing of the Highlands, whilst recognising wider national interests. The Council will seek to enter into agreements with developers as appropriate on behalf of local communities for environmental and socio-economic purposes. 'Community benefit' arrangements unrelated to the implementation of the renewable energy development itself and which do not meet the tests set out in Circular 1/2010 Planning Agreements will not be taken into account in the Development Management process. However, anticipated socio-economic impacts that are related to the implementation of the renewable energy development itself will be a material consideration when the Council determines the application. This information may be presented in any Environmental Statement prepared in respect of the development but developers may consider it to be beneficial to provide the planning authority with an additional, short report which may contain, for example, commercially sensitive information which is being relied upon to evidence economic impacts of the proposed development. Arrangements for preparation of any such additional report should be agreed beforehand with the Local Planning Authority."*

The Council invites the Reporters to consider whether this rewording of paragraph 22.1.7, particularly its reference to Circular 1/2010, is appropriate and sufficient, bearing in mind the provisions of Section 75 of the Town and Country Planning (Scotland) Act 1997 as now amended by the Planning etc (Scotland) Act 2006 and particularly the range of types of 'agreement' and 'obligation' now referred to in Section 75 and how they might be used in respect of a renewable energy scheme.

#### **Significant detriment/ balance and weight**

In Policy 68 the 'significant detriment' test applies to the overall assessment of the proposal. It is not in respect of each individual interest listed in the policy. Regard will be had in particular to any significant effects on the interests listed. The policy therefore enables the Council to weigh up not only the significance of the effect on the particular interest but also the significance of that overall, alongside any other significant effects and considerations, including good fit with policies and neutral or positive effects.

Bearing this in mind, it should be noted that Policy 68 will be applicable to the consideration of all renewable energy developments which require an application for planning permission (or an application under the Electricity Act 1989). It therefore applies to various resources/ technologies and scales of scheme. The relative significance of any particular consideration listed in the policy in the decision-making process may vary with and depend upon the type and scale of scheme proposed. Therefore the Council considers that it would be impractical to reword Policy 68 to express the level of weight to be applied to the relevant factors, given that the appropriate level of weight may vary with type and scale of scheme. Rather, the appropriate level of weight to be applied will be determined having regard to the circumstances of the particular proposal and with reference to the development plan as a whole and any material considerations. In this respect it may be noted that the preparation of the Onshore Wind Energy Supplementary Guidance provides opportunity to develop guidance about the balancing of considerations in respect of each scale of wind energy development.

The Council therefore suggests that rewording of Policy 68 in respect of this matter be limited to the beginning of the second paragraph of the policy, by insertion of the words "balancing with" and "overall", to read:

*"Subject to balancing with these considerations and taking into account any mitigation measures to be included, the Council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments (see Glossary), having regard in particular to any significant effects on the following:..... ."*



The Reporters may consider there to be merit in also including an explanation, in the supporting text paragraphs preceding the policy, that:

- the relative significance of any particular consideration listed in Policy 68 in the decision-making process may vary with and depend upon the type and scale of scheme proposed; and
- that the appropriate level of weight to be applied will be determined having regard to the circumstances of the particular proposal and with reference to the development plan as a whole and any material considerations.

### **Film industry interests**

The Council reiterates its position that the specific reference to film industry interests as a consideration should remain in Policy 68. Whilst a key asset of the area to the film industry – its landscape – is also a key asset to the tourism and recreation industries, each is an industry in its own right. There is some cross-over between parts of the tourism industry and parts of the recreation industry, but the film industry is wholly separate. Highland experience is that the film industry brings consequential benefits to the tourism and recreation industries, in terms of branding and promotion to visitors based on film coverage and also in terms of film crew spending whilst staying in the area, particularly on accommodation and food and drink, which is often outwith the main tourist season and in fragile communities. There is also more general economic benefit to the community and this is additional to any income made by the landowner(s) hosting the filmshoot. Tourism Intelligence Scotland figures indicate that 20% of visitors to Scotland say that seeing Scotland on film or TV was important in their decision to book a Scottish holiday, Visit Britain indicate 36% of visitors agreed that films they had watched have influenced their choice of holiday destination. The Highland-wide vision in the Plan, at paragraph 4.2.3 (first bulletpoint) includes support for the creative industries, which includes the film industry. This is in accord with regional and national strategies supportive of the creative industries and reflects the growing nature of the industry. However, the reference to the film industry in Policy 68 is the only specific reference to that industry within the Plan's policies.

More information about the work of the Highland Council Film Unit (the Highland Film Commission) is available in a report to the Council's Planning, Environment & Development Committee meeting of 3 August 2011, item 19 on the agenda, which is available at:

<http://www.highland.gov.uk/yourcouncil/committees/strategiccommittees/planningenvironmentanddevelopmentcommittee/2011-08-03-ped-min.htm>

Film encompasses 'big film' production (involving film crews in the hundreds) and television production and advertising/ commercials production (smaller film crews), and includes both moving and still images. It is important that the Highlands can continue to contribute to the range and choice of film locations on offer in Scotland if the national aspirations for the creative industries are to be fully realised. This is particularly so in order to balance with other factors such as fuel costs. The film industry is highly competitive. If Scotland is unable to provide the landscapes sought by the film-maker, the film-maker will look elsewhere and Scotland's economy will thus lose out. Furthermore, just as Scotland is sometimes used for filming as a look-a-like for certain other parts of the world, so some other countries could offer to be look-a-like for Scotland.

For many types of filming, ready access for film crews and proximity to accommodation is important. Therefore, although there is some correlation between types of landscape that film-makers are looking for and what protected landscapes/ wild areas have to offer, many protected landscapes/ wild areas will be too remote and inaccessible for most film making. Also, whilst a particular benefit of the film industry is its negligible lasting footprint upon an area, its location and timing of filming in some areas can be constrained by species and habitats considerations, bearing in mind potential disturbance.

The Highland Film Unit now has 16 years of data on which to base advice about the potential impacts of proposed development on the film industry. This includes:

- locations that have been used for filming (can be mapped);
- film industry spend figures;
- types of landscape/ habitat that have been sought by film-makers e.g. a panoramic, aerial view of a primitive-looking landscape (not necessarily a 360 degree panorama).

The Council considers that Policy 68 does not require amendment on this matter. The Council will prepare further guidance on this consideration for development proposals through further development of its Onshore Wind Energy Supplementary Guidance.

I trust this response meets the requirement set out in the original request.

Yours sincerely

Brian MacKenzie  
Principal Planner  
Development Plans Team