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18th November 2011

Dear Morag

**Highland Council – Highland Wide Local Development Plan – Request for Further Information – Issue 68 from Renewable Energy Developments
On behalf of Spittal Hill Wind Farm Limited**

I refer to your letter to my colleague Stuart Winter dated 1st November 2011 requesting responses to the Highland Council's comments with regard to Issue 68 Renewable Energy Developments.

I also refer to the DPEA letter of 5th September 2011 addressed to the Highland Council (THC) requesting further information, and, the THC letter of 18th October 2011 to the DPEA in response.

As agreed with you, there is an extension of time to respond with further representations with regard to the Council's response, as set out in their letter of 18th October 2011. This letter provides the response on behalf of Spittal Hill Wind Farm Limited with respect to the Highland Council's comments, and the matters raised by the DPEA.

Supplementary Guidance

While it is encouraging that THC has confirmed that there is no intention to adopt the Highland Renewable Energy Strategy and Planning Guidelines (HRES) as Supplementary Guidance, it is nevertheless very concerning that the draft policy refers to this guidance at all when aspects of it have been found to be significantly contrary to national policy at a number of wind farm Public Inquiries. The relevance of the guidance as a whole is therefore questioned, especially in light of





THC's commitment to develop new Supplementary Guidance (SG) for on-shore wind energy and which has already been through a first consultation stage this year.

If Highland Council consider that specific parts of HRES survive the criticism of various Reporters they should make very clear which parts of HRES are to be disregarded and which are considered to survive. They have failed to do this.

Given the proposed SG for on-shore wind energy will in due course become part of the statutory Development Plan, then it would make sense for this forthcoming document to be given primacy within the Development Plan. For the Council to refer to HRES in the Development Plan policy (notwithstanding the fact the document is discredited) when a new SG on Wind Energy is imminent, will only lead to confusion by the public and the development industry over the relevance of documents and the weight to be attached to them etc.

Renewable Energy Technologies

No further comments.

Community Benefit and Economic Effects

The contribution that a development could make to the "wellbeing of the Highlands" requires to be questioned in that it is not a well-defined or easily measurable policy requirement. It is too vague and it is likely to be difficult for developers, investors and the public to understand THC's intended objectives, and in turn to reflect these in consideration of development proposals (so far as reasonable). This policy requirement should be removed unless its planning purpose and how it will be applied in Development Management decisions is made clear.

The Council now proposes that there be flexibility as to whether developers submit an economic impact report. We maintain the position that this should be a matter for Supplementary Guidance and not for the Development Plan. The necessary information would be provided within an Environmental Statement in any event and we see no need or land use planning purpose for such a requirement, optional or otherwise.

If a developer chooses not to submit such detail, will that be held against him? Or does flexibility give the Council discretion to request such a report? This should be made clear.

Significant Detriment/Balance and Weight

It is encouraging that this matter has been identified as a significant policy issue, in particular how all aspects of a development will be considered and weighed in the planning balance. Overall it is welcome that there is to be an acknowledgement of the fact that wind farms are highly likely to result in some significant effects, and that the policy proposes an approach which allows a balancing of effects against wider benefits and considerations in reaching a



conclusion on “significant detriment”. SPP however uses the term “environmental acceptability” and it is considered that there may be more merit in using wording which is more closely aligned with expressions used in national planning policy.

The policy as currently drafted however, still brings in consideration of material considerations too early, contrary to the approach under section 25 of the 1997 Act as amended. Material considerations should be referred to at the end of the policy, with reference to wider benefits to be taken account of in the planning balance. Furthermore, we consider that given the Government’s objectives for renewable energy, reference should be made that significant weight will be given to the benefits of renewable energy developments.

The policy should also make it clear that failure to accord with one criterion will not necessarily result in failure to accord with the policy when read as a whole. This is an important point as the current Structure Plan Policy G2 does not provide that qualification. The matter has been debated at various Public Inquiries in relation to Policy G2 but it was only in the Reporter’s Report on the Beaully Denny Inquiry that resulted in a position being expressed by them, that failure to accord with one of the criterion would not lead to failure to accord with the policy as a whole. THC took the opposite view but the Reporters did not accept that. In order to avoid future ambiguity on the application of the policy, such clarification should be included.

Film Industry Interests

With regard to this policy aspect in the draft Development Plan, the question that remains unanswered by THC is how it would seek to apply the film industry interest matter to the assessment of development proposals? THC has failed to adequately address the questions posed to them by the DPEA, which betrays the inadequacy of this policy and the difficulties in applying it to development proposals. The policy would have considerable potential to frustrate unnecessarily the delivery of renewable energy development, thus would be inconsistent with Scottish Government policy goals.

We remain of the view that film interests is not a land use planning matter. THC state that “if Scotland is unable to provide the landscapes sought by the film-maker, the film-maker will look elsewhere and Scotland’s economy will lose out”. There is simply no evidence that the deployment of further wind energy developments will result in such a situation, nor that film interests make any significant and consistent contribution to the Highland economy.

THC go on to make the bold assertion that “many protected landscapes/ wild areas will be too remote and inaccessible for most film making”. Firstly, such areas are unlikely to come under pressure for wind energy development if they are protected. Secondly, there is simply no evidence that film-makers cannot access such areas. In fact, many protected areas are easily accessible, such as Glen Coe and Glen Nevis, both of which have been used for major films in recent years.



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THC seem to be stating that film-making today must have untouched landscapes. There remain many such landscapes in the Highlands, but notwithstanding this, digital film-making techniques now allow for dramatic alteration of images. THC do not acknowledge this.

Furthermore, there is no balancing between established, clearly defined benefits of wind farm development and potential occasional, uncertain benefits from film industry interests.

In conclusion on this matter, the topic is one that could be said to apply to any environment, including the City of Edinburgh where 'period' film making is fairly common. However, there has not been a need for a planning policy in the City of Edinburgh Development Plan to address and protect film making interests. The whole process of Planning Reform in recent years has been to try and focus planning policy and Development Plan making on relevant land use planning matters and for the planning system to be proportionate in its requirements. In our opinion, the references to film making should be struck out from the policy. It is not clear how much input from the film industry has led the Council to include this policy requirements. THC should make clear the interests that they are trying to satisfy.

Conclusions

As set out within previous representations, it is considered that there are a number of problems in the way that draft Policy 68 has been framed. I trust that the matters set out above will be given due consideration by the DPEA in making their final recommendations.

I look forward to your acknowledgment of receipt by return and should you wish to discuss the content of this letter please do not hesitate to contact me.

Yours sincerely

For Jones Lang LaSalle



David C. Bell
National Director
Planning and Development

cc Mr Steven Pottinger, Spittal Hill Wind Farm Limited
Mr David Hardy, Eversheds