Fred. Olsen Renewables

Chapter 2

Legal and Policy Context

Document history

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Contents

2.1 INTRODUCTION 3
2.2 LEGISLATIVE FRAMEWORK 3
The Electricity Act 1989 3
The Town and Country Planning (Scotland) Act 1997 3
The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 3
2.3 INTERNATIONAL CLIMATE CHANGE AND ENERGY POLICY 3
2.4 UK CLIMATE CHANGE AND ENERGY POLICY 4
Climate Change Act 2008 4
British Energy Security Strategy – Secure, clean and affordable British energy for the long term 4
Energy Security Bill 4
Committee on Climate Change – The Sixth Carbon Budget, The UK's Path to Net Zero 4
Progress in reducing emissions and Progress in adapting to climate change – 2021 Progress Reports to Parliament 5
Energy White Paper – Powering our Net Zero Future 5
2.5 SCOTTISH CLIMATE CHANGE AND ENERGY POLICY 5
Climate Change (Emissions Reduction Targets) (Scotland) Act (2019) 5
The Scottish Government's 'Programme for Scotland 2021-2022 'A Fairer, Greener Scotland' 6
Progress in reducing emissions in Scotland - 2021 Progress Report to the Scottish Parliament (2021) 6
Climate Change Plan (2018) and Monitoring Report (2021) 6
Update to the Climate Change Plan 2018-2032: Securing a Green Recovery on a Path to Net Zero 6
Scottish Energy Strategy (2017) 7
Scotland's Energy Strategy Position Statement (2021) 7
Onshore Wind Policy Statement (2017) 7
Onshore Wind - Policy Statement Refresh 2021: Consultative Draft (2021) 7
2.6 SCOTTISH PLANNING POLICY AND ADVICE 7
The National Planning Framework for Scotland 3 7
Draft National Planning Framework 4 8
Scottish Planning Policy 8
Scottish Planning Policy - Sustainable Development and Climate 8
Scottish Planning Policy - Renewable Energy 8
Scottish Planning Policy - Valuing the Natural Environment 8

Scottish Planning Policy - Valuing the Historic Environment 8
Scottish Planning Policy - Community Benefit 8
2.7 REVIEW OF DEVELOPMENT PLAN POLICY 9
Current Development Plan 9
Local Development Plan Policy 9
Renewable Energy 9
Sustainable Design 10
Landscape and Visual Amenity 10
Hydrology, Hydrogeology, Geology and Soils 10
Socio-Economic, Recreation and Tourism 10
Noise, Air and Light 10
Ecology and Ornithology 11
Cultural Heritage 11
Access, Traffic and Transport 11
Forestry 11
Supplementary Guidance 11
Wind Energy Development: Development Management Considerations Supplementary Guidance 2020 11
Part 1 Wind Energy Development: Development Management Considerations Appendix 'C' Dumfries & Galloway Wind Farm Landscape Capacity Study 2020 11
2.8 OTHER MATERIAL CONSIDERATIONS 11
East Ayrshire Local Development Plan 2017 11
Planning Advice Notes 11
2.9 SUMMARY 12

Glossary

Term	Definition
Environmental Impact Assessment	Environmental Impact Assessment (EIA) is a means of drawing together by the developer, in a systematic way, a description of the development and information relating to of the likely significant environmental effects arising from a proposed development
Environmental Impact Assessment Report	A document reporting the findings of the EIA and produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 Regulation 5.
Windy Standard Complex	The 'Windy Standard Complex' refers collectively to the operational existing Windy Standard I Wind Farm, Windy Standard II Wind Farm and the consented Windy Standard III Wind Farm.
The Applicant	Fred. Olsen Renewables Limited
The Proposed Development	The Proposed Windy Standard I Repower Wind Farm
The Proposed Development Area	The area shown delineated by the red line boundary shown on Figure 1.2.

List of Abbreviations

Abbreviation	Description
CCC	Committee on Climate Change
CCP	Climate Change Plan
COP	Conference of Parties
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
EU	European Union
GW	Gigawatts
IEA	International Energy Agency
LDP	Local Development Plan
NPF3	Scotland's Third National Planning Framework
PANs	Planning Advice Notes
SES	Scottish Energy Strategy
SNH	Scottish Natural Heritage
SPP	Scottish Planning Policy
SuDS	Surface Water Drainage and Sustainable Drainage Systems

2.1 INTRODUCTION

2.1.1 This chapter of the Environmental Impact Assessment Report (EIAR) describes the legislative and policy background relevant to the Proposed Development. It refers to energy and planning policy at a national and local level. This chapter does not assess the accordance of the Proposed Development with reference to planning policy: a separate Planning Statement Annex 4 of the EIAR has been prepared to support the application and should be referred to for a detailed planning policy appraisal.

2.1.2 This chapter has been written by Simon Herriot MRTPI, Director at Savills. Simon has 25 years' experience of planning and development matters and is a specialist in renewables and onshore wind planning.

2.2 LEGISLATIVE FRAMEWORK

The Electricity Act 1989

2.2.1 Section 36 of the Electricity Act 1989 (the Electricity Act) (HM Government, 1989)[1] provides that a generating station with a capacity in excess of 50 MW shall not be constructed, extended or operated except in accordance with a consent granted by the Scottish Ministers.

2.2.2 Paragraph 3(2) of Schedule 9 of the Electricity Act requires the Scottish Ministers, in considering any relevant proposals for which their consent is required under Section 36, to have regard to:

- the desirability of the matters mentioned in paragraph 3(1)(a) of the Schedule; and
- the extent to which the person by whom the proposals were formulated has complied with his duty.

2.2.3 The matters mentioned in paragraph 3(1)(a) are: the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historical or archaeological interest.

2.2.4 The duty under paragraph 3(1)(b) requires the person who formulated the proposals to do what he reasonably can to mitigate any effect that the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects

2.2.5 Paragraph 3(3) of Schedule 9 stipulates a further requirement to seek to avoid as far as possible, causing injuries to fisheries or to the stock of fish in any waters.

2.2.6 The Electricity Act does not say that these are the only matters to be taken into account. Scottish Ministers will take into account other matters which are material to their decision. These will include: national energy policy, national and local planning policy as well as the full scope of the environmental information submitted with the application.

The Town and Country Planning (Scotland) Act 1997

2.2.7 Primary planning legislation in Scotland is the Town and Country Planning Act (Scotland) 1997 (the Planning 1997 Act) (Scottish Government, 1997)[2] as amended by The Planning etc. (Scotland) Act 2006 (Scottish Government, 2006)[3] and the Planning (Scotland) Act 2019 (Scottish Government, 2019)[4].

2.2.8 Section 57 of the Planning 1997 Act addresses development with government authorisation. Section 57(2) states that:

'On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for – (a) so much of the operation or change of use to which the consent relates as constitutes development; (b) any development ancillary to the operational change of use to which the consent relates'.

2.2.9 Unlike planning applications considered under the terms of Section 25 of the Planning 1997 Act, the Development Plan does not form the primary basis upon which this S36 application will be determined. The Development Plan will be an important material consideration in the determination of the application, however there is no legislative requirement for the S36 application to be determined in accordance with the provisions of the Development Plan.

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

2.2.10 The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations) (Scottish Government, 2017)[5] require that all applications for Section 36 consent considered likely to have significant effects on the environment must be subject to an Environmental Impact Assessment (EIA) and the Applicant must submit an EIAR.

2.2.11 Schedule 1 of the EIA Regulations lists types of development for which EIA is mandatory, whilst Schedule 2 highlights the types of development for which the need for EIA is judged by the Scottish Ministers on a case-by-case basis. The Proposed Development falls within the definition of a Schedule 2 development.

2.2.12 The Applicant has considered the Proposed Development in light of Schedule 2 of the EIA Regulations, and has concluded that, due to its nature, size and location, it has the potential to cause significant environmental effects. Therefore, there is a requirement for an EIA to be undertaken and an EIAR to be submitted in support of the application.

2.3 INTERNATIONAL CLIMATE CHANGE AND ENERGY POLICY

2.3.1 As of 31st January 2020, the UK ceased being a member of the European Union (EU). A transitional period was in place until the end of 2020, during which time the UK remained bound by EU rules, including the renewable targets noted in the following paragraphs. Following the end of the transitional period, Section 2 of the EU (Withdrawal) Act 2018[6] (as amended) provides that all EU derived domestic legislation continues to have effect after exit day.

2.3.2 EU energy legislation and policy, like that in the UK, is driven by international co-operation to cut the emission of greenhouse gas emissions, as a means of combating climate change. This includes the 'Paris Agreement' (United Nations, 2015)[7], established through the 21st session of the Conference of Parties ('COP 21'). Ratified in the UK on 17th November 2016, the Paris Agreement sets out the ambition of holding the increase of global average temperature to 'well below 2 °C' and pursuing efforts to limit temperature increase to 1.5 °C. The COP26 'Glasgow Climate Pact'[8] published in 2021 reaffirms the Paris Agreement temperature goal of holding the increase in the

[1] HM Government (1989) Electricity Act 1989 (the Electricity Act) . [Online] Available at https://www.legislation.gov.uk/ukpga/1989/29/contents [Accessed 21st February 2022]

[2] Scottish Government (1997) Town and Country Planning Act (Scotland) 1997 (The Planning 1997 Act). [Online] Available at https://www.legislation.gov.uk/ukpga/1997/8/contents [Accessed 21st February 2022]

[3] Scottish Government (2006) The Planning etc. (Scotland) Act 2006. [Online] Available at https://www.legislation.gov.uk/asp/2006/17/contents [Accessed 21st February 2022]

[4] Scottish Government (2019) Planning (Scotland) Act 2019. [Online] Available at https://www.legislation.gov.uk/asp/2019/13/contents/enacted [Accessed 21st February 2022]

[5] Scottish Government (2017) The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations). [Online] Available at https://www.legislation.gov.uk/ssi/2017/101/contents/made [Accessed 21st February 2022]

[6] European Union (2018) Section 2 of the European Union (Withdrawal) Act 2018[6] (as amended). [Online] Available at http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted [Accessed 21st February 2022]

[7] United Nations (2015) Conference of Parties ('COP 21'). [Online] Available at . https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement [Accessed 21st February 2022]

[8] United Nations (2021) The COP26 'Glasgow Climate Pact'. [Online] Available at https://unfccc.int/process-and-meetings/the-paris-agreement/the-glasgow-climate-pact-key-outcomes-from-cop26 [Accessed 21st February 2022]

global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels.

2.3.3 The United Nations Emissions Gap Report 2021[9], is the twelfth in a series of reports comparing where greenhouse gas emissions are heading, against where they need to be and highlighting the ways to close the gap. This latest report shows that new national climate pledges combined with other mitigation measures put the world on track for a global temperature rise of 2.7 °C by the end of the century. That is well above the goals of the Paris Agreement and the Glasgow Climate Pact and would lead to catastrophic changes in the Earth's climate. To keep global warming below 1.5 °C this century, the aspirational goal of the Paris Agreement, this report states that the world needs to halve annual greenhouse gas emissions in the next eight years.

2.4 UK CLIMATE CHANGE AND ENERGY POLICY

2.4.1 Energy policy in Scotland is a matter that is reserved to the UK Parliament. However, as the following Section notes, the Scottish Government has published several of its own energy policy and strategy documents that apply to Scotland only and these are material to the determination of this application.

Climate Change Act 2008

2.4.2 The Climate Change Act became law on 26th November 2008 and introduced a legally binding target for the UK to reduce CO_2 emissions by at least 80% by 2050, relative to 1990 levels.

2.4.3 In June 2019, the UK Government passed the draft Climate Change Act 2008 (2050 Target Amendment) Order 2019[10] to amend the Climate Change Act 2008, by introducing a target for at least a 100% reduction of greenhouse gas emissions in the UK, compared to 1990 levels. This Order follows on from the recommendations presented by the Committee on Climate Change (CCC) publication 'Net Zero, The UKs contribution to stopping global warming'[11].

2.4.4 Efforts to reduce greenhouse gas emissions in Scotland would contribute to achievement of UK wide targets, as well as meeting Scotland specific targets as discussed below.

British Energy Security Strategy – Secure, clean and affordable British energy for the long term

2.4.5 In April 2022 the UK Government published the above Strategy[12], primarily in response to rising global energy prices and following the Russian invasion of Ukraine. A key aim of the Strategy is to reduce our dependence on imported oil and gas and to help decarbonise the energy sector, achieving net zero by 2050.

2.4.6 The Introduction notes that *'the transition away from oil and gas then depends critically on how quickly we can roll out new renewables'*. It continues and notes that *'the growing proportion of our electricity coming from renewables reduces our exposure to volatile fuel markets'*.

2.4.7 The Strategy discusses a range of technologies including offshore and onshore wind, solar, hydrogen and nuclear. It recognises that *'onshore wind is one of the cheapest forms of renewable power'* and that there is a *'strong pipeline of future projects in Scotland'*. While there is a strong focus in the Strategy on new nuclear and the continued expansion of offshore wind, the report recognises that *'…we need to be bolder in removing the red tape that holds back new clean energy developments and exploit the potential of all renewable technologies'* (underlining added).

Energy Security Bill

2.4.8 The Energy Security Bill[13], introduced to Parliament on 6 July 2022, seeks to deliver a cleaner, more affordable, and more secure energy system. Including 26 measures, the Bill is expected to bring £100 billion in private sector investment into diversifying the UK's energy mix by 2030.

2.4.9 Growing renewable markets is a key focus, with an expectation that close to 480,000 new jobs will be created by the legislation.

2.4.10 In a push to reduce the UK's dependence on volatile fossil fuel markets and gas prices, the Bill seeks to improve domestic energy production and make the country more self-sufficient when it comes to the energy it uses.

2.4.11 Announcing the Bill, Business Secretary Kwasi Kwarteng said, '*this is the biggest reform of our energy system in a decade'* and, *'the measures in the Energy Security Bill will allow us to stand on our own two feet again, reindustrialise our economy and protect the British people from eye-watering fossil fuel prices into the future'*.

Committee on Climate Change – The Sixth Carbon Budget, The UK's Path to Net Zero

2.4.12 In December 2020 the CCC published 'The Sixth Carbon Budget'[14] which comprises three documents: 'The UK's Path to Net Zero'; 'Methodology Report'; and 'Policies for the Sixth Carbon Budget and Net Zero'. The 2020 CCC Report describes what the potential path options to net-zero look like and what steps must be taken to achieve this. A key recommendation of the Report is that the UK Government requires a reduction in UK greenhouse gas emissions of 78 % by 2035 relative to 1990 and that this should be coupled with a pledge by 2030 to reduce emissions by at least 68 % from 1990 levels.

2.4.13 The Foreword by Lord Deben highlights the importance of taking decisive action in the 2020s, noting that if efforts are not scaled up in this '*decisive decade'* then the UK will not deliver net zero by 2050. The Foreword notes that that '*utmost focus is required from government over the next ten years'* and that policy now needs to be *'scaled up across every sector'* to deliver net-zero.

2.4.14 The Report recognises that reducing emissions from electricity generation to near-zero will require significant expansion of low-carbon generation. Emphasis is also placed on the increasing demand for electricity through the electrification of the economy. Wind power is highlighted in the 2020 Report as the backbone of renewable energy production, stating that the deployment of 3 Gigawatts (GW) per year of new wind capacity is required, plus repowering of existing sites.

[9] Union Nations (2021) United Nations Emissions Gap Report 2021. [Online] Available at https://www.unep.org/resources/emissions-gap-report-2021 [Accessed 21st February 2022]

[10] UK Government (2019) The draft Climate Change Act 2008 (2050 Target Amendment) Order 2019. [Online] Available at https://www.legislation.gov.uk/ukdsi/2019/9780111187654 [Accessed 21st February 2022]

[11] Committee on Climate Change (2019) Net Zero, The UKs contribution to stopping global warming. [Online] Available at https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/ [Accessed 21st February 2022]

[12] UK Government (2022) The British Energy Security Strategy. [Online] Available at https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy [Accessed 20th May 2022]

[13] UK Government (2022) Energy Security Bill [Online] Available at https://www.gov.uk/government/collections/energy-security-bill#:~:text=The%20Energy%20Security%20Bill%2C%20introduced,Energy%20Security%20Bill [Accessed 8th July 2022[

[14] Committee on Climate Change (2020) The Sixth Carbon Budget. [Online] Available at https://www.theccc.org.uk/publication/sixth-carbon-budget/ [Accessed 21st February 2022]

Progress in reducing emissions and Progress in adapting to climate change – 2021 Progress Reports to Parliament

2.4.15 The above reports were published in June 2021 (CCC, June 2021) by the CCC[15]. The Executive Summaries within the respective reports state that, *'In assessing the UK's progress in the last year, we acknowledge the increase in the scale of Government's efforts. But progress is not yet in step with the urgency of the challenge'* and *'Climate change impacts are increasing, but the UK Government's National Adaptation Programme has not delivered the necessary improved resilience to the changing climate as was intended under the UK Climate Change Act.'*

2.4.16 The 'Progress in reducing emissions' report also states that '*Projections for renewable deployment are being revised upwards, but investment needs to scale up faster. More than 80 % of new electricity capacity added in 2020 came from renewable sources. The International Energy Agency (IEA) recently increased their forecast for capacity installations for wind and solar electricity generation over the coming years by around 40% relative to a year ago.'*

Energy White Paper – Powering our Net Zero Future

2.4.17 The UK Government published the above paper in December 2020 (HM Government, 2020)[16] which sets out the approach to be taken to tackling the challenge of climate change. Recognising the world-leading UK net-zero target, the Foreword states that this will require decisive global action and significant investment to open up opportunities for economic growth and job creation.

2.4.18 The various actions set out in the White Paper are described as '*a strong signal to project developers and the wider investor community about the government's commitment to delivering clean electricity'*. In the Section 'Our Key Commitments', the White Paper notes that '*onshore wind and solar will be key building blocks for the future generation mix, along with offshore wind'*. The White Paper continues and states that *'we will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net-zero emissions in all demand scenarios'*.

2.4.19 The White Paper further underlines the need for fast and decisive action on climate change and confirms the important role that the continued development of renewable energy generation projects will play in delivering net zero.

2.5 SCOTTISH CLIMATE CHANGE AND ENERGY POLICY

2.5.1 Like the UK Government, Scotland too has legislated to achieve net-zero carbon emissions. In October 2019, The Climate Change (Emissions Reduction Targets) (Scotland) Bill received Royal Assent. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 builds on a number of energy policy documents that recognise the Scottish Governments commitment to tackling climate change and promoting the growth of renewable energy. The Scottish Government has published a number of climate change and energy policy documents and its own targets. The most relevant Scottish publications include:

- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019[17];
- The Climate Change (Scotland) Act 2009[18];
- The Scottish Government's 'Programme for Scotland 2021-2022 'A Fairer, Greener Scotland' (2021)[19];
- The 'Progress in Reducing Emissions in Scotland 2021 Report to Parliament' (CCC, October 2021)[20];
- The Scottish Climate Change Plan (February, 2018)[21];
- Climate Change Monitoring Report 2021[22];
- Update to the Climate Change Plan 2018 - 2032: Securing a Green Recovery on a Path to Net Zero (December, 2020)[23];
- The Scottish Energy Strategy (December, 2017)[24];
- Scotland's Energy Strategy Position Statement (2021)[25];
- The Onshore Wind Policy Statement (December, 2017)[26]; and
- The 'Onshore Wind Policy Statement Refresh 2021: Consultative Draft' (2021)[27].

Climate Change (Emissions Reduction Targets) (Scotland) Act (2019)

2.5.2 The Climate Change (Emissions Reduction Targets) Act 2019 (Climate Change Act 2019) amends the Climate Change (Scotland) Act 2009 and sets a target date of 2045 for reaching net-zero emissions. The Climate Change Act 2019 states that the Scottish Ministers must ensure that the net Scottish emissions account for the year (with 1990 being the baseline year):

- 2020 is at least 56 % lower than the baseline;
- 2030 is at least 75 % lower than the baseline; and
- 2040 is at least 90 % lower than the baseline.

[15] Committee on Climate Change (2021) Progress in reducing emissions and Progress in adapting to climate change – 2021 Progress Reports to Parliament. .[Online] Available at https://www.theccc.org.uk/publication/2021-progress-report-to-parliament/ [Accessed 21st February 2022]

[16] UK Government (2020) Energy White Paper – Powering our Net Zero Future. . [Online] Available at https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future [Accessed 21st February 2022]

[17] Scottish Government (2019) The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. [Online] Available at https://www.legislation.gov.uk/asp/2019/15/enacted [Accessed 21st February 2022]

[18] Scottish Government (2009) The Climate Change (Scotland) Act 2009. [Online] Available at https://www.legislation.gov.uk/asp/2009/12/contents [Accessed 21st February 2022]

[19] Scottish Government (2021) The Scottish Government's 'Programme for Scotland 2021-2022 'A Fairer, Greener Scotland [Online] Available at https://www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/ [Accessed 21st February 2022]

[20] Committee on Climate Change (2021) The 'Progress in Reducing Emissions in Scotland 2021 Report to Parliament'. [Online] Available at https://www.theccc.org.uk/publication/progress-reducing-emissions-in-scotland-2021-report-to-parliament/ [Accessed 21st February 2022]

[21] Scottish Government (2018) The Scottish Climate Change Plan [Online] Available at https://www.gov.scot/publications/scottish-governments-climate-change-plan-third-report-proposals-policies-2018/ [Accessed 21st February 2022]

[22] Scottish Government (2021) Climate Change Monitoring Report 2021. [Online] Available at: https://www.gov.scot/publications/climate-change-plan-monitoring-reports-2021-compendium/ [Accessed 20th May 2022]

[23] Scottish Government (2020) Update to the Climate Change Plan 2018 - 2032: Securing a Green Recovery on a Path to Net Zero. [Online] Available at (https://www.gov.scot/publications/securing-green-recovery-path-net-zero-update-climate-change-plan-20182032/ [Accessed 21st February 2022]

[24] Scottish Government (2021) The Scottish Energy Strategy. [Online] Available at https://www.gov.scot/publications/scottish-energy-strategy-future-energy-scotland-9781788515276/ [Accessed 21st February 2022]

[25] Scottish Government (2021) Scotland's Energy Strategy Position Statement. [Online] Available at https://www.gov.scot/publications/scotlands-energy-strategy-position-statement/ [Accessed 21st February 2022]

[26] Scottish Government (2017) The Onshore Wind Policy Statement. [Online] Available at https://www.gov.scot/publications/onshore-wind-policy-statement-9781788515283/ [Accessed 21st February 2022]

[27] Scottish Government (2021) The 'Onshore Wind Policy Statement Refresh 2021: Consultative Draft'. [Online] Available at https://www.gov.scot/publications/onshore-wind-policy-statement-refresh-2021-consultative-draft/ [Accessed 21st February 2022]

The Scottish Government's 'Programme for Scotland 2021-2022 'A Fairer, Greener Scotland'

2.5.3 On 7 September 2021, the Scottish Government published its 'Programme for Scotland 2021-2022 'A Fairer, Greener Scotland.' The Programme was introduced amidst the ongoing process to lead the country out of the COVID-19 pandemic and much of the focus of the Programme is on the response to the challenges presented by this. The Introduction from the First Minister within the Programme states that, *'In the year of COP26 - being hosted in our great city of Glasgow - we will rise to the other global challenge we face, taking the necessary action to stem climate change. We will do so in a way which ensures we grasp the opportunities to put a net zero Scotland at the heart of our economic prosperity.'*

2.5.4 The Programme goes on to state that the Scottish Government is committed to securing between eight and 12 GW of installed onshore wind by 2030, recognising the vital role that this technology has to play in delivery the net zero commitment. The Programme also confirms that Scotland is leading the way in new forms of clean energy and states that in 2020 almost 100 % of gross electricity consumption came from renewable sources. The Scottish Government's aim is that by 2030 50 % of Scotland's overall energy consumption will come from renewable sources, which will pave the way for decarbonising the country's energy system almost completely by 2050. The Programme recognises that *'Development of renewable energy presents an immense opportunity for Scotland to lead by example - showing how a clean energy future is possible at home, and as a net exporter of renewable energy, attracting further investment and ensuring our progress to net zero is environmentally and economically beneficial'* (page 64).

2.5.5 As well as focussing on the delivery of net zero in relation to tackling climate change, the Programme also recognises the importance of renewable energy to the economic recovery post-COVID. *'A just transition to net zero requires a robust, diversified economy where businesses can make investments with confidence - domestically and globally - and will ensure Scotland is a world leader, showcasing our strengths including in green and renewable technologies. That isn't just a moral obligation in meeting our ambitious targets to end Scotland's contribution to climate change, it is an economic opportunity to be grasped: benefiting businesses by leveraging public and private sector finance to create new markets and business opportunities, and benefiting people by protecting existing jobs, and creating new skills, training and employment opportunities'* (Page 78).

Progress in reducing emissions in Scotland - 2021 Progress Report to the Scottish Parliament (2021)

2.5.6 Published on 7 December 2021, the 2021 Progress Report to the Scottish Parliament (CCC, December 2021) assesses Scotland's overall progress in achieving its legislated targets to reduce greenhouse gas emissions. This is the tenth annual Progress Report to the Scottish Parliament as required by the Climate Change (Scotland) Act 2009. This latest report shows that, in 2019, Scotland's greenhouse emissions fell by 2 % compared to 2018, and are now 44 % below 1990 levels. The reductions were largely driven by the manufacturing and construction, and fuel supply sectors, with electricity generation remaining the biggest driver of emissions cuts over the past decade (2009-2019).

2.5.7 There are a number of key messages from this report including a recognition that the annual targets set for the 2020s will be very difficult to meet, even with strong climate policy support. Climate policy in Scotland must focus on the transition required to net zero in order to make rapid progress by 2030 and the focus must also be on implementation and delivery of real-world progress.

2.5.8 The report makes a number of recommendations including for the Scottish Government to *'Set out an updated assessment of how much renewable and low-carbon electricity generation will be required to meet Net Zero in Scotland and contribute cost-effectively to Net Zero in the UK, with a clear trajectory to 2045'*, as well as to *'Complete the definition and enforcement of a planning and consenting scheme for onshore wind and other low carbon generation in a manner that is consistent with other policies on land use, supporting repowering and life extension of existing wind power in Scotland, and aligning with adaptation priorities under the Scottish Climate Change Adaptation Programme.'*

Climate Change Plan (2018) and Monitoring Report (2021)

2.5.9 The vision of the Climate Change Plan (Scottish Government, 2018) (CCP) sets out that *'By 2032, Scotland's electricity system will supply a growing share of Scotland's energy needs and by 2030, 50 % of all Scotland's energy needs will come from renewables'*.

2.5.10 The CCP includes two specific policy outcomes in relation to electricity generation, as follows:

- Policy Outcome 1: From 2020 onwards, Scotland's electricity grid intensity will be below 50 grams of carbon dioxide per kilowatt hour. The system will be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies; and
- Policy Outcome 2: Scotland's energy supply is secure and flexible, with a system robust against fluctuations and interruptions to supply.

2.5.11 Implementation indicators for Policy Outcomes 1 and 2 are:

- increase amount of electricity generated from renewable sources in Scotland;
- increase the installed capacity of sites generating electricity from renewable sources in Scotland. By 2030, it is expected that the installed capacity of renewable electricity generation sources will be between 12 GW and 17 GW;
- increase total community and locally owned renewable energy capacity operational, and in development, in Scotland;
- increase total renewable capacity in Scotland by planning stage; and
- increase the share of electricity generated from renewable sources, as a proportion of total electricity generated in Scotland.

2.5.12 The first CCP Monitoring Report was published in May 2021. In terms of the electricity sector, it notes that it is on track to meet the outcomes set by the CCP, including a reduced CO_2 electricity grid intensity, an increase in the installed capacity of renewable generation and an increase in the capacity of renewable energy projects at the planning stages.

2.5.13 Against these positives however, the Monitoring Report notes that ‘efforts to decarbonise the electricity sector will need to be stepped up in the face of Scotland’s new Net Zero commitment, with sharp rise in capacity expected to be necessary in order to reach the target and to help drive decarbonisation across other sectors’.

Update to the Climate Change Plan 2018-2032: Securing a Green Recovery on a Path to Net Zero

2.5.14 In December 2020, the 'Update to the CCP 2018 - 2032: Securing a Green Recovery on the Path to Net Zero' (CCP Update) (Scottish Government, 2020) was published. Building on the policy outcomes identified in the 2018 CCP, the CCP Update sets the Scottish Government's legislative commitment to reducing emissions by 75 % by 2030 (compared with 1990) and to net-zero by 2045 in the context of a post-COVID green recovery.

2.5.15 The CCP Update highlights that a key part of the green recovery is a co-ordinated approach across sectors. For example, the development of renewable energy supports the decarbonisation of numerous sectors, including industry and agriculture. The CCP Update emphasises the growth and success to date of Scotland's renewable energy generation as well as stating strongly the determination that this growth must continue. Page 78 of the Update states that *'Planning has been, and will remain, a critical enabler of rapid renewables deployment in Scotland'*. Referring particularly to onshore wind generation, on page 84 it is noted that there is a motivation to

reduce determination periods for applications so as to enable projects to be awarded consent to be developed more quickly.

Scottish Energy Strategy (2017)

2.5.16 In December 2017, the Scottish Energy Strategy (SES) (Scottish Government, 2017) was published by the Scottish Government alongside the then Draft CCP and the Onshore Wind Policy Statement.

2.5.17 A key goal within the SES is that Scotland will become a world leader in renewable and low carbon technologies and services. The SES sets out a target for Scotland to achieve almost complete decarbonisation of energy and sets a 2030 'all energy' target for the equivalent of 50 % of Scotland's heat, transport and electricity consumption to be supplied from renewable sources. This vision is also included in the CCP (February, 2018), which is discussed above.

2.5.18 The SES sets out on page 35 that *'Scottish Government analysis underpinning this target shows that renewable electricity - which has already outperformed our interim 2015 target of 50 % - could rise to over 140% of Scottish electricity consumption, ensuring its contribution to the wider renewable energy target for 2030'*, and that *'This assumes a considerably higher market penetration of renewable electricity than today - requiring in the region of 17 GW of installed capacity in 2030 (compared to 9.5 GW in June 2017) - with greater interconnection with parts of continental Europe providing an expanded market for our electricity'.*

2.5.19 In general terms, onshore wind is also recognised as a key opportunity. The SES sets out that '*Onshore wind is now amongst the lowest cost forms of power generation of any kind, and is a vital component of the huge industrial opportunity that renewables create for Scotland. The sector supports an estimated 7,500 jobs in Scotland, and generated more than £3 billion in turnover in 2015'.*

Scotland's Energy Strategy Position Statement (2021)

2.5.20 On 16 March 2021 the Scottish Government published its Energy Strategy Position Statement in relation to the SES. The Energy Strategy Position Statement provides an overview of the key priorities for the short to medium-term in ensuring a green economic recovery, whilst remaining aligned to the net zero ambitions.

2.5.21 The Energy Strategy Position Statement confirms that Scotland continues to make excellent progress in areas such as renewable electricity generation and that this progress reflects the huge strides that have been made over the last couple of decades in onshore wind deployment. However, it is also recognised that there remains potential for much more development of renewable energy infrastructure across Scotland, both in the established forms, such as onshore wind, as well as other forms of technology.

2.5.22 Within the section relating to support for the renewable energy sector, the Energy Strategy Position Statement notes that '*The Scottish Government is committed to supporting the increase of onshore wind in the right places to help meet the target of Net Zero. In 2019, onshore wind investment in Scotland generated over £2 billion in turnover and directly supported approximately 2,900 full-time equivalent jobs across the country. We continued to make good progress last year, with Scotland's renewable electricity generation having grown to such an extent that it was able to meet the equivalent of 90 % of Scotland's gross electricity consumption - making 2019 another record breaking year for the sector.'*

Onshore Wind Policy Statement (2017)

2.5.23 The Onshore Wind Policy Statement (Scottish Government, 2017) along with the SES was published in December 2017, providing specific national policy with regards to onshore wind. The Ministerial Foreword sets out that *'There is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally create for Scotland. The sector supports an estimated 7,500 jobs in Scotland, or 58 % of the total for onshore wind across the UK, and generated more than £3 billion in turnover in 2015. Developers are increasingly managing international onshore wind projects from their bases in Scotland'* (page 2).

2.5.24 It further adds that *'Our energy and climate change goals mean that onshore wind will continue to play a vital role in Scotland's future - helping to substantively decarbonise our electricity supplies, heat and transport systems, thereby boosting our economy, and meeting local and national demand. This important role means we must support development in the right places, and - increasingly - the extension and replacement of existing sites, where acceptable, with new and larger turbines, based on an appropriate, case by case assessment of their effects and impacts'* (page 3).

2.5.25 The section of the report 'Route to Market' sets out that *'In order for onshore wind to play its vital role in meeting Scotland's energy needs, and a material role in growing our economy, its contribution must continue to grow. Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system, helping to meet the greater demand from our heat and transport sectors, as well as making further progress towards the ambitious renewable targets which the Scottish Government has set'* and *'This means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated'* (page 6).

Onshore Wind - Policy Statement Refresh 2021: Consultative Draft (2021)

2.5.26 The above document was published in October 2021 and the period of consultation ran until the end of January 2022. The report seeks views on a range of issues, including the Scottish Government's ambition to secure an additional 8-12 GW of installed onshore wind capacity by 2030; how to tackle the barriers to deployment of more onshore wind; and how to secure maximum economic benefit from these developments.

2.5.27 The Ministerial Foreword notes that onshore wind remains vital to Scotland's future energy mix and recognise that *'we will need much more'* as we move towards net zero. Chapter 2 notes that *'a consistently higher rate of onshore wind and other renewables capacity will be required year on year'.* Coupled with this, there is recognition in Chapter 4 that the need for more onshore wind and the developments in wind turbine technology mean that Scotland's landscape will change.

2.6 SCOTTISH PLANNING POLICY AND ADVICE

2.6.1 National planning policy of relevance to the determination of the Proposed Development currently comprises the National Planning Framework for Scotland 3 (2014)[28] and Scottish Planning Policy (SPP) (2014)[29]. In addition, a Draft National Planning Framework 4 (2021)[30] was published for consultation in November 2021. At the time of writing this document has yet to be approved by the Scottish Government.

The National Planning Framework for Scotland 3

2.6.2 The third National Planning Framework 3 for Scotland (NPF3) (Scottish Government, 2014), published in June 2014, represents a spatial expression of the Scottish Government's aspirations for sustainable economic growth in Scotland over the next 20-30 years. It sets out at the national level, the Scottish Government's strategy for the country's development, in terms of how we are to develop our environment and includes development proposals identified as schemes of national importance. NPF3 is a material consideration of relevance to the Proposed Development.

[28] Scottish Government (2014) National Planning Framework for Scotland 3. [Online] Available at https://www.gov.scot/publications/national-planning-framework-3/ Accessed 21st February 2022

[29] Scottish Government (2014) Scottish Planning Policy. [Online] Available at https://www.gov.scot/publications/scottish-planning-policy/ . Accessed 21st February 2022

[30] Scottish Government (2021) A Draft National Planning Framework 4. [Online] Available at https://consult.gov.scot/local-government-and-communities/draft-national-planning-framework-4/ Accessed 21st February 2022

2.6.3 The development of onshore wind is supported in NPF3. Paragraph 3.23 highlights wind energy's continued role in contributing towards a low carbon economy and states, '*onshore wind will continue to make a significant contribution to diversification of energy supplies'*. In addition, paragraph 3.7 recognises that onshore wind development can be an opportunity to improve the long-term resilience of rural communities.

Draft National Planning Framework 4

2.6.4 In November 2021 the Scottish Government published its Draft Scotland 2045: Our Fourth National Planning Framework (Draft NPF4). Only limited weight can be given to the polices in Draft NPF4 at this stage, given that it is anticipated to be subject to further revision and re-consultation prior to adoption. When adopted NPF4 will replace both NPF3 and SPP and will form part of the statutory Development Plan.

2.6.5 The opening paragraphs of Draft NPF4 (page 3) state *'We have set a target of net zero emissions by 2045, and must make significant progress towards this by 2030. This will require new development and infrastructure across Scotland.'*

2.6.6 Draft NPF4 continues to set a positive context for renewable energy developments embedded in NPF3 that will help achieve the legally binding net zero greenhouse gas emissions target by 2045 (with associated interim targets, including a 75 % reduction by 2030 compared to 1990 levels). Various parts of Draft NPF4 are relevant to the Proposed Development:-

- Part 2 - National Developments. National Development 12 'Strategic Renewable Electricity Generation and Transmission Infrastructure' sets out a list of developments that would have national status including *'Electricity generation, including electricity storage, from renewables of or exceeding 50 megawatts capacity'.* National development status means that *'the principle of the development does not need to be agreed later in the consenting process, providing more certainty for communities, business and investors'*.
- Part 3 - National Planning Policy. Within this section various draft policies would apply to the Proposed Development including Policy 2 - Climate Emergency, Policy 3 - Nature Crisis, Policy 19 - Green Energy, Policy 28 - Historic Assets and Places and Policy 32 - Natural Places.

2.6.7 Draft NPF4 is discussed further in the accompanying Planning Statement. Policy 19: Green Energy, is of most relevance to the Proposed Development. The pre-amble to the Policy states, *'We want our places to support continued expansion of low-carbon and net zero energy technologies as a key contributor to net zero emissions by 2045. Part (d) of the Policy states that outwith National Parks and National Scenic Areas 'development proposals for new wind farms should be supported unless the impacts identified are unacceptable'*.

Scottish Planning Policy

2.6.8 SPP was published in June 2014 (Scottish Government, 2014) and is a statement of Scottish Government policy on land use planning. SPP emphasises the importance of tackling climate change and, in particular, the need to reduce greenhouse gas emissions. SPP is a material consideration of relevance to the Proposed Development. The following paragraphs set out the policy issues which are most relevant to the Proposed Development.

Scottish Planning Policy - Sustainable Development and Climate

2.6.9 One of the over-arching aims of SPP is to achieve Sustainable Development. SPP emphasises as a 'policy principle' that there is a presumption in favour of development that contributes towards sustainable development (the presumption). In considering whether the SPP 'presumption' applies, SPP paragraph 29 sets out a series of sustainable development principles against which proposals are to be assessed. The accompanying Planning Statement considers the Proposed Development against these principles.

2.6.10 In relation to climate change and delivering Outcome 2 of SPP 'A Low Carbon Place', paragraph 19 notes that the planning system can play a key role in supporting *'the transformational change required to meet emission reduction targets and influence climate change'.*

Scottish Planning Policy - Renewable Energy

2.6.11 Paragraph 154 of the SPP states that the planning system should *'support the transformational change to a low carbon economy, consistent with national objectives and targets'.*

2.6.12 Paragraph 154 goes on to state that the planning system *'should support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity...'.*

2.6.13 In order to achieve this, paragraph 155 states that Development Plans *'should seek to ensure an area's full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative impact considerations'*.

2.6.14 In relation to onshore wind, SPP Table 1 'Spatial Frameworks', provides locational guidance for onshore wind developments, as follows:

- Group 1: Areas where wind farms will not be acceptable (National Parks and National Scenic Areas);
- Group 2: Areas of Significant Protection (National and international designations, other nationally important mapped environment interests including areas of wild land) and a 2 km community separation distance for consideration of visual impact; and
- Group 3: Areas with potential for wind farm development.

2.6.15 Figure 2.1 shows the turbines within the Proposed Development are all located within a Group 3 area.

2.6.16 Paragraph 169 stipulates that proposals for energy infrastructure should always take account of spatial frameworks for wind farms, where relevant. The same paragraph sets out a range of development management criteria for the consideration of energy infrastructure proposals including socio-economic impacts, scale of contribution to renewable energy targets, cumulative impacts, and many technical and environmental impacts to be considered, for example, landscape, historic environment and natural heritage. These issues are considered in greater depth in the accompanying Planning Statement.

Scottish Planning Policy - Valuing the Natural Environment

2.6.17 The policy principles for this subject matter are set out in paragraph 194 of the SPP. This states that the planning system should *'facilitate positive change while maintaining and enhancing distinctive landscape character…conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities'*.

2.6.18 Paragraph 196 states that *'Buffer zones should not be established around areas designated for their natural heritage importance. ……. The level of protection given to local designations should not be as high as that given to international or national designations'.*

Scottish Planning Policy - Valuing the Historic Environment

2.6.19 Paragraph 135 states that *'Planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places which enrich our lives, contribute to our sense of identity and are an important resource for our tourism and leisure'.* Paragraph 137 goes on to state that the planning system should, *'promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning'.*

Scottish Planning Policy - Community Benefit

2.6.20 SPP realises the benefits of developer contributions to local communities and states in paragraph 173 that *'Where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in*

negotiations to secure community benefit in line with the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments'.

2.7 REVIEW OF DEVELOPMENT PLAN POLICY

Current Development Plan

2.7.1 The Proposed Development lies within the Dumfries and Galloway Council administrative boundary. The statutory Development Plan comprises the following:

- Dumfries and Galloway Local Development Plan 2[31] 2019 (LDP);
- Wind Energy Development: Development Management Considerations Supplementary Guidance 2020[32]; and
- Part 1 Wind Energy Development: Development Management Considerations Appendix 'C' Dumfries & Galloway Wind Farm Landscape Capacity Study 2020[33].

Local Development Plan Policy

2.7.2 This section identifies LDP policies which will be potentially relevant in the determination of the application. Policies are arranged by theme and reflect chapter divisions within the EIAR where possible. Table 2.1 below identifies potentially relevant adopted Development Plan policies:-

Table 2.1: LDP policies

LDP Policies	
Policy OP1: Development Considerations	Policy NE5: Species of International Importance
Policy ED10: Galloway and Southern Ayrshire Biosphere	Policy NE6: Sites of National Importance for Biodiversity and Geodiversity
Policy ED11: Dark Skies	Policy NE8: Trees and Development
Policy HE1: Listed Buildings	Policy NE11: Supporting the Water Environment
Policy HE2: Conservation Areas	Policy NE14: Carbon Rich Soil
Policy HE3: Archaeology	Policy NE15: Protection and Restoration of Peat Deposits as Carbon Sinks
Policy HE6: Gardens and Designed Landscapes	Policy CF4: Access Routes
Policy HE7: Historic Battlefields	Policy IN1: Renewable Energy
Policy NE1: National Scenic Areas	Policy IN2: Wind Energy
Policy NE2: Regional Scenic Areas	Policy IN7: Flooding and Development
Policy NE3: Areas of Wild Land	Policy IN8: Surface Water Drainage and Sustainable Drainage Systems (SuDS)
Policy NE4: Sites of International Importance for Biodiversity	Policy T1: Transport Infrastructure

Renewable Energy

2.7.3 LDP Policy IN1: Renewable Energy states:-

'*The Council will support development proposals for all renewable energy generation and/or storage which are located, sited and designed appropriately. The acceptability* of any proposed development will be assessed against the following criteria:*

- *Landscape and visual impact;*
- *Cumulative impact;*
- *Impact on local communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;*
- *The impact on natural and historic environment (including cultural heritage and biodiversity);*
- *The impact on forestry and woodlands; and*
- *The impact on tourism, recreational interests and public access.*

To enable this assessment sufficient detail should be submitted, to include the following as relevant to the scale and nature of the proposal:

- *Any associated infrastructure requirements including road and grid connections (where subject to planning consent);*
- *Environmental and other impacts associated with the construction and operational phases of the development including details of any visual impact, noise and odour issues;*
- *Relevant provisions for the restoration of the site;*
- *The scale of contribution to renewable energy generation targets;*
- *Effects on greenhouse gas emissions; and*
- *Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.*

** Acceptability will be determined through an assessment of the details of the proposal including its benefits and the extent to which its environmental and cumulative impacts can be satisfactorily addressed*.'

2.7.4 LDP Policy IN2: Wind Energy states:-

'***Assessment of all Wind Farm Proposals***

The Council will support wind energy proposals that are located, sited and designed appropriately. The acceptability of any proposed wind energy development will be assessed against the following considerations:*

Renewable energy benefits

The scale of the contribution to renewable energy generation targets, effect on greenhouse gas emissions and opportunities for energy storage.

Socio-economic benefits

[31] Dumfries and Galloway Council (2019) Dumfries and Galloway Local Development Plan. [Online] Available at https://www.dumgal.gov.uk/media/21885/Adopted-Local-Development-Plan-2/pdf/Adopted_LDP2_OCTOBER_2019_web_version.pdf?m=637771647699370000 Accessed 21st February 2022

[32] Dumfries and Galloway Council (2020) Wind Energy Development: Development Management Considerations Supplementary Guidance. [Online] Available at https://www.dumgal.gov.uk/media/22639/Wind-Energy-Development-Development-Management-Considerations/pdf/Wind_Energy_SG_Final_PDF_February_2020_Version.pdf?m=637184984806630000 Accessed 21st February 2022

[33] Dumfries and Galloway Council (2020) Part 1 Wind Energy Development: Development Management Considerations Appendix 'C' Dumfries & Galloway Wind Farm Landscape Capacity Study. [Online] Available at https://www.dumgal.gov.uk/media/22640/Part-1-Wind-Energy-Development-Development-Management-Considerations-Appendix-C-DGWFLCS/pdf/Wind_Energy_Appendix_C_Landscape_SG_LDP2_Adopted.pdf?m=637184996412100000 Accessed 21st February 2022

Net economic impact, including local and community socio-economic benefit such as employment, associated business and supply chain opportunities.

Landscape and visual impacts

- *The extent to which the landscape is capable of accommodating the development without significant detrimental landscape or visual impact, including effect on wildland; and*
- *That the design and scale of the proposal is appropriate to the scale and character of its setting, respecting the main features of the site and the wider environment and that it addresses fully the potential for mitigation.*

Cumulative impact

The extent of any cumulative detrimental landscape or visual impact or impacts on existing patterns of development from two or more wind energy developments and the potential for mitigation.

Impact on local communities and residential interests

The extent of any detrimental impact on communities, individual dwellings, residents and local amenity, including assessment of the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Impact on infrastructure

The extent to which the proposal addresses any detrimental impact on road traffic, adjacent trunk roads and telecommunication, particularly ensuring transmission links are not compromised.

Impact on Aviation and Defence Interests

The extent to which the proposal addresses any impacts arising from location within an area subject to potential aviation and defence constraints, including the Eskdalemuir Safeguard Area.

Other Impacts and considerations

a) the extent to which the proposal avoids or adequately resolves any other significant adverse impact on the natural environment, including:- biodiversity, forest and woodlands, carbon-rich soils, hydrology, the water environment and flood risk, the historic environment, cultural heritage, tourism and recreational interests and public access.

b) the extent to which the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

Further details on this assessment process including its application to smaller capacity windfarms are to be provided through Supplementary Guidance on Wind Energy Development. This will also include mapping of the constraints relevant to the considerations above.

*The Spatial Framework Map ** (Map 8) provides strategic guidance. However, it must be read in conjunction with the supplementary guidance and its Appendix, the Dumfries and Galloway Wind Farm Landscape Capacity Study. The landscape capacity study is a supportive study, the consideration of which does not replace the need to assess the landscape or visual impacts of individual proposals.*

** Acceptability will be determined through an assessment of the details of the proposal including its benefits and the extent to which its environmental and cumulative impacts can be satisfactorily addressed.*

*** The Spatial Framework Map relates to one turbine or more over 20 metres.'*

Sustainable Design

2.7.5 Overarching Policy OP1: Development Considerations, sets out a number of criteria against which all types of development proposals will be assessed. Sustainability is a large section of the OP1 policy criteria and requires that development proposals limit the impacts of climate change, support resilience and promote sustainable development via various measures including minimising adverse impacts on the natural environment, supporting a reduction in carbon emissions and assisting the development of the local economy.

Landscape and Visual Amenity

2.7.6 Policy NE1: National Scenic Areas, states that development within or affecting such designations will only be permitted if it does not adversely affect the qualities for which the site has been designated or adverse effects are outweighed by social, environmental or economic benefits of national importance. Policy NE2: Regional Scenic Areas, states that development within or affecting such areas may be supported where the Council is satisfied that the factors behind the designation would not be significantly adversely affected or there is a specific locational need. Policy NE3: Wild Land, states that '*Development which would affect the Merrick Wild Land Area in Galloway and the Talla Hart Fell Wild Land Area north of Moffat would not be supported unless the Council is satisfied that it is demonstrated that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.'*

Hydrology, Hydrogeology, Geology and Soils

2.7.7 Policy NE11: Supporting the Water Environment, states that the Council will not permit development that would deteriorate or impede waterbodies. If culverting is required, the Council would require acceptable mitigation measures for habitats, fauna passage and water flow.

2.7.8 Policy NE14: Carbon Rich Soil, states that developments proposed on areas of carbon rich soil will need to clearly justify the loss of the carbon sink stating that, '*development may be permitted if it can be demonstrated that in accordance with the Scottish Government's 'carbon calculator' or other equivalent independent evidence the balance of advantage in terms of climate change mitigation lies with the development proposal'*. Policy NE15: Protection and Restoration of Peat Deposits as Carbon Sinks, states that the Council will support peatland restoration. Site restoration measures will be required or *'where renewable energy generating development is proposed and it can be demonstrated (in accordance with the Scottish Government's 'carbon calculator' or other equivalent independent evidence) that the balance of advantage in terms of climate change mitigation lies with the energy generation proposal.'*

2.7.9 Policy IN7: Flooding and Development, states that development which would result in on or off-site flooding will not be permitted. In circumstances where development could lead to unacceptable flooding a Flood Risk Assessment will be required. Policy IN8: Surface Water Drainage and Sustainable Drainage Systems (SuDS), sets out that drainage issues are a consideration for every planning proposal. Planning applications must include details of the proposed SuDS design.

Socio-Economic, Recreation and Tourism

2.7.10 Policy IN1: Renewable Energy, states that any impact on tourism, recreational interests and public access will be considered in the assessment of all renewable energy proposals. Policy ED11: Dark Skies, states *'the Council supports the designation of the Galloway Forest Dark Sky Park, and will assess proposals for development on their merits, securing levels of lighting that are appropriate to the nature of the development, contribute to sustainable development, and do not adversely affect the objectives of the Dark Sky Park designation.'*

2.7.11 Policy CF4: Access Routes, states that *'the Council as Access Authority will assert, protect and keep open and free from obstruction any route, waterway or other means by which access rights may reasonably be exercised. Development proposals should not impact adversely on any of the aforementioned access routes and Core Paths.'*

Noise, Air and Light

2.7.12 Overarching Policy OP1: Development Considerations, contains amenity criteria that must be met for all development proposals relating to noise, emissions from dust or dirt to air and light pollution. Also, both renewable

energy policies IN1 and IN2 contain criteria relating to noise which form part of the policy assessment that will be carried out by the Council.

Ecology and Ornithology

2.7.13 Policy ED10: Galloway and Southern Ayrshire Biosphere, states that '*the Council supports the designation and aims of the Biosphere and will encourage development that demonstrates innovative approaches to sustainable communities and the economy, and supports the enhancement, understanding and enjoyment of the area as a world class environment. Development must be appropriate to the role of the different zones within the Biosphere.*'

2.7.14 Policy NE4: Sites of International Importance for Biodiversity, requires that development proposals that would have a significant effect on a Special Protection Area or Special Area of Conservation will only be permitted where the integrity of such sites is not adversely affected or if there is no alternative solution identified. Policy NE5: Species of International Importance, states that where a development is likely to have an adverse effect on a European Protected Species, such development will not be permitted unless there is no satisfactory alternative, the development is required for imperative reasons, including beneficial consequences of importance to the environment and maintenance of the species population is achievable.

2.7.15 Policy NE6: Sites of National Importance for Biodiversity and Geodiversity, aims to protect Sites of Special Scientific Interest and other national nature conservation designations. Development will not be permitted unless the development proposal does not adversely affect the qualities for which the area has been designated or such adverse effects are outweighed by environmental benefits of national importance.

Cultural Heritage

2.7.16 Policy HE2: Conservation Areas, states that in considering proposals that might affect the character or appearance of a conservation area the Council will need to be satisfied that the character and setting of the area will be preserved through appropriate design, scale and massing. Policy HE3: Archaeology, states the Council will support development that protects significant archaeological and historic assets and that '*where there is uncertainty about the location, extent or significance of these assets an agreed scheme of assessment and evaluation to inform the application is included with the proposal…and/or…. due consideration has been given to the significance and value of the site or asset in relation to the long-term benefit and specific need for the development in the location proposed.*'

2.7.17 Policy HE6: Gardens and Designed Landscapes, states that in considering development proposals the Council must be satisfied that the development protects or enhances the significant elements of the designated site and that due consideration has been given to the significance and value of the asset. Policy HE7: Historic Battlefields, states that *'where it would not have an adverse impact on the character, appearance, setting or key features of the battlefield, the Council will support development within a site listed in the Inventory of Historic Battlefields.'*

Access, Traffic and Transport

2.7.18 Policy T1: Transport Infrastructure, states '*proposals for the improvement of existing transport infrastructure and, where appropriate, the provision of new transport infrastructure and/or services will be supported provided they accord with the Regional and Local Transport Strategies.*' This policy also requires that development proposals do not compromise the national and strategic role of the road network such as to reduce the level of service of a route. New access on to a regional road network also must not reduce the level of service of such a route.

Forestry

2.7.19 Policy NE8: Trees and Development, states that the Council will support development proposals that promote additional tree planting and maintain trees and hedgerows. This policy also states that '*in submitting development proposals, details should be provided of the arrangements to be made for the long term maintenance of both the existing woodland resource and any proposed new planting, including providing adequate room for further growth.*'

Supplementary Guidance

Wind Energy Development: Development Management Considerations Supplementary Guidance 2020

2.7.20 The Wind Energy Development: Development Management Considerations Supplementary Guidance was adopted in 2020. This Supplementary Guidance sets out a range of issues the Council will consider when determining wind energy applications, expanding on the LDP renewable energy policies. This document provides detail on a number of policy matters relating to landscape, transportation, peat, cultural heritage and aviation, as well as guidance on siting and design.

Part 1 Wind Energy Development: Development Management Considerations Appendix 'C' Dumfries & Galloway Wind Farm Landscape Capacity Study 2020

2.7.21 Part 1 Wind Energy Development: Development Management Considerations Appendix 'C' Dumfries & Galloway Wind Farm Landscape Capacity Study was also adopted in 2020 and forms an appendix to the Supplementary Guidance. This document assesses the sensitivity of landscape character types, and more locally defined character areas, to different sizes of wind turbine development. The purpose of this study is to inform strategic planning for wind energy development as well as providing more detailed assessment to be used in the consideration of development proposals for wind farms.

2.8 OTHER MATERIAL CONSIDERATIONS

East Ayrshire Local Development Plan 2017

2.8.1 Although the Proposed Development is entirely with the Dumfries and Galloway administrative boundary, it sits adjacent to the boundary of East Ayrshire Council. In light of this it may be appropriate to consider certain policies within the East Ayrshire Local Development Plan 2017[34]. Any relevant policies from this document will be considered within the detailed policy assessment in the accompanying Planning Statement.

Planning Advice Notes

2.8.2 Relevant Planning Advice Notes (PANs) are summarised in Table 2.2.

Table 2.2: Relevant PANs

Title	Summary of Document
PAN 1/2013 Environmental Impact Assessment	Provides information on the role local authorities and consultees play as part of the EIA process, and how the EIA can inform development management.
PAN 60 (2000) Planning for Natural Heritage	Advises developers on the importance of discussing their proposals with the planning authority and NatureScot, (formerly Scottish Natural Heritage (SNH)) and use of the EIA process to identify the environmental effects of development proposals and seek to prevent, reduce and offset any adverse effects in ecology and biodiversity.

[34] South Ayrshire Council (2017) East Ayrshire Local Development Plan. [Online] Available at https://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Development-plans/LocalAndStatutoryDevelopmentPlans/East-Ayrshire-Local-Development-Plan-2017.aspx Accessed 21st February 2022

Title	Summary of Document
PAN 61 (2001) Sustainable Urban Drainage Systems	Good practice drainage guidance.
PAN 68 (2003) Design Statements	This PAN covers the importance of design statements, and provides flexible guidance on their preparation, structure, and content. The PAN also outlines the principles underpinning the production of design statements, as expected by the Scottish Government.
PAN 75 (2005) Planning for Transport	The objective of PAN 75 is to integrate development plans and transport strategies to optimise opportunities for sustainable development and create successful transport outcomes.
PAN 3/2010 Community Engagement	This document provides advice on how to engage with local communities through the planning process.
PAN 1/2011 Planning and Noise	This PAN provides advice on the role of the planning system in helping to prevent and/ or mitigate any potential adverse effects of noise. It promotes the principles of good acoustic design and promotes a sensitive approach to the location of new development.
PAN 2/2011 Planning and Archaeology	The PAN is intended to inform local authorities and other organisations of how to process any archaeological scope of works within the planning process.

2.9 SUMMARY

2.9.1 This chapter has set out the legislative background, a summary of the renewable energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the Proposed Development. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIAR in order to ensure that it provides the appropriate information for the consideration of the planning application.

2.9.2 The policy appraisal for the Proposed Development is contained in a separate Planning Statement.