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Chapter 4

Climate Change, Legislative and Policy Context

Contents

Glossary

Term	Definition
Environmental Impact Assessment Report	A document reporting the findings of the EIA and produced in accordance with the EIA Regulations
The Proposed Development	The proposed Daer Wind Farm development
The Proposed Development Area	The development area within the site boundary (application area)

4.1 INTRODUCTION

4.1.1 This chapter of the Environmental Impact Assessment Report (EIAR) identifies and contextualises the policy and legislative framework relevant to the development of renewable energy generally and onshore wind specifically. It is recognised that current drivers to these policies have emerged from the pressing concerns regarding climate change and the resulting aims of reducing greenhouse gas emissions. Renewable energies, including wind powered generating stations, are acknowledged as a means to reduce greenhouse gas emissions through a reduced reliance upon fossil fuels.

4.1.2 The chapter also considers key policy documents, such as the Scottish Energy Strategy (2017) and the associated Scottish Onshore Wind Energy Policy Statement (2017). Both underline the continuing importance of onshore wind in general terms to meeting renewable energy, decarbonisation and climate change targets and in driving down the cost of power through efficiency measures including the use of taller wind turbines with longer blades and bigger generators.

4.1.3 This chapter additionally identifies the relevant national and local planning policies against which the application for the Proposed Development is likely to be assessed.

4.1.4 It is not the purpose of this chapter to provide a planning assessment of the Proposed Development against these policies. Detailed analysis of the Proposed Development is contained within a separate Planning, Design and Access Statement, which is submitted with the application. That document contains a brief description of the Proposed Development, the rationale for the proposal, a summary of the findings of the EIAR and consideration of the application against key legislative requirements.

4.2 THE ELECTRICITY ACT 1989

4.2.1 As the Proposed Development will generate over 50 MW of electricity it will require consent from the Scottish Ministers under Section 36 of The Electricity Act 1989.A decision on the Section 36 application under the Electricity Act 1989 (the 1989 Act) is the principal decision to be made in this case. Importantly, there is no ‘primacy’ of the Development Plan in an application made under the 1989 Act, as would be the case for an application under the Town and Country Planning (Scotland) Act 1997 as amended. Rather, weight can be attributed by the decision-maker to all material considerations including the various levels of national and local energy and planning related policy and guidance as deemed appropriate, as well as any socio-economic benefits of the Proposed Development. The Development Plan is therefore but one of a number of documents that can be attributed weight by the decision maker in arriving at a decision on the Proposed Development.

4.2.2 As set out in the authoritative Dorenell Wind Farm Judicial Review by Lord Malcolm (June 2012), Section 25 of the 1997 Act sets a requirement to have regard to the Development Plan in making decisions on planning applications, however deemed planning permission directions under Section 57(2) are not bound by the same rule. Although the consenting authority in this instance is therefore the Scottish Ministers, Schedule 8 of the Act requires the relevant local planning authorities are consulted on planning matters; in this case South Lanarkshire Council and Dumfries & Galloway Council.

4.2.3 The requirements of Schedule 9 of the 1989 Act, which is concerned with the preservation of amenity and fisheries, are applied to applications for consent under Section 36 of the Electricity Act 1989. Pursuant of Schedule 9 of the Act, the Applicant shall have regard to the desirability of preserving natural beauty, conserving flora and fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historical or archaeological interest, and shall do, within reason, what it reasonably can to mitigate any effect the Proposed Development might have on these features. In considering the Proposed Development, the Scottish Ministers shall have regard to the desirability of these matters and the extent to which the Applicant has complied with its duty to mitigate effects, where reasonably possible.

4.2.4 These matters have been addressed in this EIAR and assessments of these features have been undertaken and are described along with a summary of the proposed mitigation measures in the relevant chapters of the EIAR to mitigate potential environmental effects upon these assets.

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

4.2.5 Regulation 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 states that Scottish Ministers must not:-

(a) grant an Electricity Act consent for EIA development; or

(b) direct that planning permission is deemed to be granted under section 57(2) or (2ZA) of the 1997 Act in respect of EIA development,

unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the Scottish Ministers must take the environmental information into account.

4.2.6 Such EIA has been completed following liaison with consultees, extensive survey work and design iterations.

4.3 CLIMATE CHANGE (CONTEXT, POLICY AND LEGISLATION)

4.3.1 It is widely accepted that climate change is a pressing and real issue. The Intergovernmental Panel on Climate Change (IPCC) has, to date, published three Working Group (WG) reports which have been collated into a Synthesis Report (SYR)[1] and all taken together, make up the Fifth Assessment Report (AR5). Headline statements from the report include:

"Human influence on the climate system is clear, and recent anthropogenic emissions of greenhouse gases are the highest in history. Recent climate changes have had widespread impacts on human and natural systems."

Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and ecosystems. Limiting climate change would require substantial and sustained reductions in greenhouse gas emissions which, together with adaptation, can limit climate change risks.

Adaptation and mitigation are complementary strategies for reducing and managing the risks of climate change. Substantial emissions reductions over the next few decades can reduce climate risks in the 21st century and beyond, increase prospects for effective adaptation, reduce the costs and challenges of mitigation in the longer term, and contribute to climate-resilient pathways for sustainable development.

Many adaptation and mitigation options can help address climate change, but no single option is sufficient by itself. Effective implementation depends on policies and cooperation at all scales, and can be enhanced through integrated responses that link adaptation and mitigation with other societal objectives."

4.3.2 The Sixth Assessment Report AR6 is currently in the Scoping Stage and is due to be published in 2022[2].

International

4.3.3 The United Nations Framework Convention on Climate Change (UNFCCC) has had a prominent role in establishing international policy on climate change. In particular, its principal review mechanism 'The Kyoto Protocol' was adopted by the Annex 1 participating countries in 1997 and commits the industrialised countries to legally binding targets to limit or reduce their greenhouse gas emissions.

4.3.4 The **Paris Agreement** (**Paris climate accord** or **Paris climate agreement)** is an agreement within the UNFCCC dealing with greenhouse gas emissions, mitigation adaption and finance starting in the year 2020. The Paris Agreement aims to respond to the global climate change threat by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees[3] Celsius. Under the Paris Agreement, the UK will be required to produce plans and regularly report its own contribution towards mitigation. There is no mechanism to force a country to set a specific target by a specific date, but each target should go beyond previously set targets.

Climate Change Act 2008 as amended

4.3.5 The Climate Change Act 2008 received Royal Assent on 26 November 2008 and introduced legally binding targets on the Secretary of State to reduce the UK's net greenhouse gas emissions by at least 80% below 1990 levels by 2050. It was updated in 2019 through **The Climate Change Act 2008 (2050 Target Amendment) Order 2019** to increase this target to 100%.

4.3.6 The Climate Change Act 2008 established a series of measures to achieve these targets including the introduction of carbon budgeting, a carbon trading scheme and the creation of a new Committee on Climate Change ("CCC").

Climate Change (Scotland) Act 2009 as amended

4.3.7 The Climate Change (Scotland) Act 2009 was aimed to establish a framework to drive greater efforts at reducing Kyoto Protocol greenhouse gas emissions in Scotland.

4.3.8 The Act was amended by **Climate Change (Emissions Reduction Targets) (Scotland) Act 2019** which created new mandatory climate change targets to achieve **a reduction in Scotland's greenhouse emissions by 100% below 1990 levels by 2045**.

Climate Change Plan 2018

4.3.9 The Climate Change Plan sets out Scotland's strategy to meet emission reduction targets between 2018 and 2032, taking a visionary approach. It is published under the Climate Change (Scotland) Act 2009 as amended.

4.3.10 The plan sets out the emissions reductions pathway towards 2032 with the target of reducing emissions by 66% against the 1990s levels. It is acknowledged that "this will be an enormous transformational change" (page 22). Published in February 2018, before the Climate Emergency declaration, an updated version is expected in the near future.

Net Zero - The UK's Contribution to Stopping Global Warming 2019

4.3.11 The CCC[4] published its landmark report entitled 'Net Zero – UK's Contribution to Stopping Global Warming' in May 2019. The report responds to requests from the Scottish and Welsh Governments of the UK, asking the CCC to reassess the UK's long-term carbon emissions targets.

4.3.12 The Foreword of the report (page 8) sets out that the CCC has "*reviewed the latest scientific evidence on climate change, including last year's IPCC special report on global warming of 1.5^{0}C and considered the appropriate role of the UK in the global challenge to limit future temperature increases*". It adds, "*Net Zero is a more fundamental aim than previous targets. By reducing emissions produced in the UK to zero, we also end our contribution to rising global temperatures".*

4.3.13 The report makes recommendations for the UK economy including:

- UK overall: a new tougher emissions target of net zero[5] greenhouse gases (GHG) by 2050, ending the UK's contribution to global warming within 30 years. This would replace the previous target of an 80% reduction

[1] SYR, available at: https://www.ipcc.ch/report/ar5/syr/ (accessed 25/02/2021)

[2] Available at: https://wg1.ipcc.ch/AR6/AR6.html (accessed 15/07/2020)

[3] Available at: https://www.ipcc.ch/sr15/ (accessed 25/02/2021)

[4] The CCC is an independent, statutory body established under the Climate Change Act 2008. Its purpose is to advise the UK Government and Devolved Administrations on emissions targets and report to Parliament on progress made in reducing greenhouse gas emissions and preparing for climate change.

by 2050 from a 1990 baseline (acted upon by The Climate Change Act 2008 (2050 Target Amendment) Order 2019);

- **Scotland: a target of net-zero GHG economy by 2045**, reflecting Scotland's greater relative capacity to remove emissions than the UK as a whole (acted upon by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019).

4.3.14 The Technical Annex to the CCC report specifically addresses integrating variable renewables into the UK electricity system. The Annex makes it clear that variable renewable electricity, such as large-scale onshore wind, is now the cheapest form of electricity generation in the UK and can be deployed at scale to meet UK electricity demands.

Climate Emergency

4.3.15 Scottish First Minister Nicola Sturgeon declared a "Climate Emergency" in her speech to the SNP Conference in April 2019, stating:

4.3.16 "*As First Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it."* Referring to the soon to be published CCC advice, Ms Sturgeon added *"if that advice says we can go further or go faster, we will do so*".

4.3.17 Furthermore, Climate Change Secretary Roseanna Cunningham made a statement on 14 May 2019 to the Scottish Parliament on the 'Global Climate Emergency', again, with reference to the recent CCC Report:

4.3.18 "*We acted immediately with amendments to our Climate Change Bill to set a 2045 target for net zero emissions - as we said we would do. If agreed by Parliament, these will be the most stringent legislative targets anywhere in the world and Scotland's contribution to climate change will end, definitively, within a generation. The CCC was clear that this will be enormously challenging...."*

4.3.19 The Minister also highlighted the important role of the planning system stating:

4.3.20 "*And subject to the passage of the Planning Bill at Stage 3, the next National Planning Framework and review of Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals*".

CCC Annual Report 2020

4.3.21 This is the Committee's 2020 report to Parliament, assessing progress in reducing UK emissions over the past year. The report includes new advice to the UK Government on securing a green and resilient recovery following the COVID-19 pandemic. It recommends that Ministers seize the opportunity to turn the COVID-19 crisis into a defining moment in the fight against climate change.

4.3.22 The document is an update on the progress of reducing emissions within the UK over the past year and also provides advice on a green recovery following the COVID-19 crisis. It highlights that net zero emissions and improved climate resilience are integral to the Covid-19 recovery. Climate investments will also assist in job creation and encourage economic recovery.

4.3.23 In the report, the Committee have assessed an array of measures and collated the most up to date evidence on the role of climate policies within the economic recovery. Within the report five investment priorities are recommended:

- Low-carbon retrofits and buildings that are fit for the future.
- Tree planting, peatland restoration, and green infrastructure.
- Energy networks must be strengthened.
- Infrastructure to make it easy for people to walk, cycle, and work remotely.
- Moving towards a circular economy.

4.3.24 Combined with this the following opportunities have been identified to support the transition and recovery by investing in the UK's workforce, and in lower-carbon behaviours and innovation:

- Reskilling and retraining programmes.
- Leading a move towards positive behaviours.
- Targeted science and innovation funding.

4.3.25 The UK will host the COP26 summit and the G7 in 2021 which will be an opportunity to demonstrate the UK's climate leadership and provide clear milestones for the next steps in the UK's emission targets climate adaptations.

Reducing emissions in Scotland Progress Report to Parliament, Committee on Climate Change, October 2020

4.3.26 This report provides a useful benchmark of Scotland's progress towards meeting climate change targets. Whilst noting that good progress was made during the 2010's towards reducing emissions, this was largely through the increase in renewable energy generation alongside the closure of Scotland's last coal fired power station in 2016. The challenge ahead will be focussed on accelerating the decarbonisation of other sectors primarily through further electrification. The paper recognises on page 11 how the Scottish Government has taken important steps to '*embed Net Zero as a core Government policy, framing major fiscal and Parliamentary events around climate action*'[6].

4.3.27 The document also highlights that net zero emissions and improved climate resilience are integral to the Covid-19 recovery noting that the Scottish Government must take actions to improve resilience by integrating adaption into all Government Policy.

4.3.28 Within the table of actions the following are noted in terms of the Scottish Governments intentions to integrate climate and planning policy.

Table 1

Consolidate Scotland's net zero and adaptation objectives more closely within the National Performance Framework. When - Next Parliament.

Align the next National Planning Framework (NPF4) closely to Net Zero and adaptation, providing a favourable planning and consenting regime for a low carbon and efficient energy system and climate-resilient infrastructure. When – 2021.

Table 6

Align the National Planning Framework (NPF4) to a net-zero energy system – enforcing a favourable planning and consenting scheme for onshore wind and other renewables in 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. 2021-2022

[5] A net zero target would require 100% reduction in greenhouse gas emissions. It is referred to as 'net' as the expectation is that it would be met with some remaining sources of emissions which would need to be offset by removals of CO_2 from the atmosphere.

[6] Available online: https://www.theccc.org.uk/wp-content/uploads/2020/10/Reducing-emissions-in-Scotland-Progress-Report-to-Parliament-FINAL.pdf (last accessed 25/02/2021)

Carbon Payback

4.3.29 A carbon balance assessment report has been produced and SEPA's Carbon Calculator completed, to determine the carbon payback time for the Proposed Development (see EIAR Technical Appendix 4 for full details). The results from the carbon calculator reveal that the Proposed Development would have effectively paid back its expected carbon debt from manufacture, construction, impact on habitat and decommissioning within 1.7 years, if it replaced the fossil fuel electricity generation method. Following the expected **~33 years generation of carbon-free renewable electricity**, it is calculated that the Proposed Development will result in over **3,743,124 tonnes of CO_2 emission savings** when replacing fossil fuel electricity generation. As the negative payback period represents approximately 6% of the operational period and the positive contribution 94% it is possible to conclude that the positive contribution is statistically significant. The proposed development therefore illustrates a significantly positive net impact in terms of its contribution towards the reduction of greenhouse gas emissions from energy production.

Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021

4.3.30 The Scottish Government published its strategy Protecting Scotland, Renewing Scotland[7] in September 2020 which sets out actions and a recovery plan for 2020 and beyond in response to COVID-19.

4.3.31 In the introduction delivered by First Minister Nicola Sturgeon it states that "*We must use this moment to make significant advances to deliver the fairer, greener, more prosperous Scotland we all want to see".* She continues saying "*Central to that recovery is a new national mission to help create new jobs, good jobs and green jobs*". The First Minister also highlights the importance of a green recovery stating: "*Even before the pandemic, we knew we had significant work to do in order to improve the state of nature and meet our statutory commitment to be a net zero society by 2045. The impacts of the crisis have reinforced the need for that, but also the opportunities it presents*".

4.3.32 As a result of this, the Scottish Government has committed to dedicating £100m over the next five years to a green job fund. The funds will be invested into business and organisations which support the prospects of greener job creation across Scotland.

4.3.33 This will place a green recovery at the forefront of Scottish Government policy and will offer many businesses a chance to diversify and innovate. It also provides an opportunity for people to retrain and upskill in new high growth areas.

4.3.34 Furthermore, the First Minister states in her introduction to the strategy that: "*We will immediately put a clear new focus on our updated Climate Change Plan, ensuring it reflects our new starting point and the central importance of a green recovery to Scotland's progress, and the Infrastructure Investment plan will reflect our commitment to tackling climate change. We will ensure our rural economy and Scotland's rich natural resources and biodiversity are central to our economic, environmental, and social wellbeing".*

Renewable energy in the UK market

4.3.35 Following the announcement of closure of the Renewables Obligation scheme to onshore wind in 2015 it has broadly been accepted that there must be a change in approach to deliver onshore wind farm developments in a manner that is efficient and economically viable. Whilst there has been a new announcement[8] in 2020 for onshore wind to be re-introduced to Contracts for Difference (CfD) energy auction in late 2021, the terms and size of budget remain unclear and given the level of competition, projects need to be designed on a worst-case scenario i.e. to generate 'subsidy free' without such CfD.

4.3.36 In the shift between onshore wind being reliant on subsidies to having none, there is a need to recognise the benefits that new larger typology wind turbines can bring, with larger rotor diameters, taller tip heights and higher capacity generators. These turbines increase efficiency and maximise the use of the available wind resource, and also reduce the turbine numbers per unit area of land. This movement towards larger turbines is now reflected in more recent renewable energy policy, such as in the Scottish Energy Strategy, as discussed in section 4.3.2 below. This is vital in helping Scotland, and the UK, meet their renewable energy targets.

4.4 RELEVANT SCOTTISH RENEWABLE ENERGY POLICIES

4.4.1 In the past, renewable energy had been guided in Scotland by the 2020 Route Map for Renewable Energy in Scotland and the Renewables Action Plan (2009) as well as the UK policies and guidance mentioned above. Following this, after being on course to meet the ambitious targets it presented, the Scottish Energy Strategy emerged in 2017 to guide the future development of energy in Scotland. This strategy was accompanied by the 2017 Onshore Wind Policy Statement.

Scottish Energy Strategy

4.4.2 The Scottish Energy Strategy was published in December 2017. The strategy introduced new targets for the energy system by 2030, additional to those of the 2020 Route Map for Renewable Energy in Scotland and the Renewables Action Plan.

4.4.3 It is estimated that 17 GW of installed renewable capacity will be required by 2030 for these targets to be met. The installed capacity of renewables in Scotland was 9.5 GW in June 2017. It is therefore considered that the ambitious but achievable target set in strategy of **generating 50% of Scotland's energy demand for heat, transport and electricity by renewable resources by 2030** can be met. This represents a notable increase in the targets which underpinned the Scottish Planning Policy (SPP) in 2014, a point which is discussed further in section 12.6 of this chapter.

A 2050 Vision

4.4.4 The Scottish Energy Strategy (2017) [9] outlines a vision for energy production in Scotland for 2050. The vision is centred on achieving a strong, low carbon economy in which renewable energy in Scotland (which contributed 18% to the UK's low carbon sector in 2014 generating £5.6 billion) play an important part.

4.4.5 It sets new targets to produce the equivalent of 50% of Scotland's heat, transport and electricity consumption by renewable sources by 2030, with the ambition of a system wide approach towards energy production and to increase the productivity of energy use across the Scottish economy by 30%.

4.4.6 The strategy recognises Scotland's potential with the renewable energy industry rapidly growing in the country. Scotland is a substantial contributor to both UK and EU energy systems. It has great potential to help meet both national and local energy targets. Page 43 states:

"*Our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland's future – helping to decarbonise our electricity, heat and transport systems, boosting our economy, and meeting local and national demand."*

[7] Available online: https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/ (last accessed 25/02/2021)

[8] Available online: UK's fourth CfD renewable energy auction in late 2021 to aim for 12 GW | S&P Global Platts (last accessed 25/02/2021)

[9] Available at: http://www.gov.scot/Resource/0052/00529523.pdf (accessed 19/07/2020)

Scotland's Changing Energy System

4.4.7 The Scottish Energy Strategy recognises there is an ongoing trend in Scotland's energy system. There has recently been a rapid growth in harnessing the country's renewables resources, making for a largely decarbonised electricity supply.

4.4.8 Building on this success, it is the aspiration to continue this change in the energy system and begin to tackle decarbonising heat and transport sectors to meet the country's updated energy and climate change targets. Renewables have an important role to play in this in a shift away from the use of and reliance on fossil fuels in energy production, as well as energy efficiency. This is essential in helping the Scottish Government meet the set energy and climate change targets and become an energy leader.

Renewables and Scotland's Economy

4.4.9 The Scottish Energy Strategy recognises that the renewables industry has been a key economic driver within Scotland's Economy. In 2015, an estimated 58,500 jobs were supported by Scotland's low carbon and renewable energy sector and supply chain. Moreover, Scotland is now a key contributor to innovations in renewable energy technology.

4.4.10 The strategy claims that onshore wind is a key component in Scotland's industrial opportunities. In 2015, it has been estimated that the sector supported 7,500 jobs in Scotland, generating more than a £3 billion turnover.

Scottish Onshore Wind Policy Statement

4.4.11 The Scottish Onshore Wind Policy Statement [10] recognises the sector as a big contributor to the Scottish economy. The sector supports an estimated 7500 jobs in Scotland, or 58% of the total for onshore wind across the UK and generated more than £3 billion in turnover in 2015.

4.4.12 The Scottish Government seeks to use its devolved powers to support appropriately sited onshore wind developments. The Policy Statement sets out the urgent need for onshore wind developments in Scotland.

4.4.13 The Policy Statement recognises that the future of the market for onshore wind is uncertain following the removable of subsidies in 2015. However, it is considered that continued development can be facilitated with the right regulatory framework and Government support. One of the key messages of this policy is the recognition that onshore wind is to play a "vital role" in meeting Scotland's energy needs in developing the economy. It continues by stating that the technology remains "crucial" in relation to Scotland's sustainable goals and renewable energy targets.

4.4.14 The Scottish Government states it will support new and repowered wind farms. This support includes an acknowledgement that if wind farms are to be viable in a post subsidy world this inevitably means the use of larger turbines, where appropriately located, and that such wind turbines can capture more of the available wind resource and improve the efficiency of wind turbine developments. With the necessary support for such large turbine projects by Scottish Ministers and statutory and non-statutory consultees it is considered that the ambitious 2030 energy targets can be met. This represents a notable extension in policy direction from previous policy statements including but not limited to the 2014 Scottish Planning Policy (discussed in more detail below).

4.5 PLANNING FRAMEWORK

The Planning Acts

4.5.1 The request that planning permission be granted deemed planning consent is governed by Section 57 (2) of the Town and Country Planning (Scotland) Act 1997, which provides that:

"On granting a consent under section 36 or 37 of the Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Secretary of State may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction."

4.5.2 The Planning etc. (Scotland) Act 2006 introduced additional processes in relation to the scale of development proposals. Although not required as a Section 36 application, given the scale of the Proposed Development, the Applicant has followed good practice in submitting a Design and Access Statement and a Pre-Application Consultation Report.

4.5.3 The most recent amendment to the 1997 Act comes in the form of the Planning (Scotland) Act 2019. Although the principal elements of this have yet to be implemented most notably through a revised version of the National Planning Framework (NPF)/SPP which will have Development Plan status in decision making (rather than a material consideration), the 2019 Act makes it clear under the 'Purpose of Planning' in Section 1 that contributing to sustainable development is considered to be in the long-term public interest. It also recognises under the requirements for the new National Planning Framework in Section 3 that regard is to be had to achieving Climate Change targets.

NATIONAL PLANNING POLICY AND ADVICE

National Planning Framework

4.5.4 The Planning etc. (Scotland) Act 2006 amended the 1997 Act to put National Planning Framework (NPF) on a statutory footing. The third edition, NPF3, was published in June 2014[11]. It sets out a strategy for Scotland's development over the next 20 to 30 years, providing a national context for development plans and planning decisions, to inform wider programmes of government, public agencies and local authorities.

4.5.5 NPF3 confirms the importance of renewable energy to Scotland's energy mix and highlights upgrades to the electricity transmission system infrastructure that are needed to facilitate this development. The vision for Scotland portrayed in NPF3 is that of a successful, sustainable place, a low carbon place, a natural resilient place and a connected place. These visions put emphasis on the aspirations of Scotland being a leader in low carbon energy generation, both onshore and offshore, to create a more energy efficient environment with less greenhouse gas emissions. The target is to generate the equivalent of Scotland's gross annual electricity consumption from renewable sources by 2020. The 2015 target of 50% was exceeded and whilst data is not available at time of writing for 2020, renewables generated the equivalent of 90% of gross electricity consumption for Scotland in 2019[12].

4.5.6 NPF is a material consideration and assessment of the Proposed Development against NPF3 is provided in the supporting Planning, Design and Access Statement to this application.

4.5.7 The energy sector is a key focus in Scotland's Economic Development Strategy, with recognition given to the importance of emerging renewable energy technologies. NPF3 states in paragraph 3.6 that the renewables industry currently supports around 11,000 jobs in Scotland and paragraph 3.9 states the Government's intention to maintain this:

"Security of supplies and addressing fuel poverty remain key objectives. We want to continue to capitalise on our wind resource, and for Scotland to be a world leader in offshore renewable energy. In time, we expect the pace of onshore wind energy development to be overtaken by a growing focus on our significant marine energy opportunities, including wind, wave and tidal energy".

[10] Available at: https://www.gov.scot/Resource/0052/00529536.pdf (accessed 19/07/2020)

[11] Available at: http://www.gov.scot/Resource/0045/00453683.pdf (last accessed 19/03/2019).

[12] Available online: https://www.scottishrenewables.com/our-industry/statistics (last accessed 25/02/2021)

4.5.8 NPF3 takes a stronger, more prescriptive stance regarding spatial development of onshore wind, stating in paragraph 3.23 that:

"Onshore wind will continue to make a significant contribution to diversification of energy supplies. We do not wish to see wind farm development in our National Parks and National Scenic Areas. Scottish Planning Policy sets out the required approach to spatial frameworks which will guide new wind energy development to appropriate locations, taking into account important features including wild land."

4.5.9 NPF3 also states the importance of community ownership in renewable energy and aims to deliver 500 MW of renewable energy in community and local ownership by 2020 and increase benefits in commercial scale developments.

4.5.10 Preparation of NPF4 has been delayed by the impacts of COVID-19 but is underway and whilst it may not be published before the application for the Proposed Development is determined it may be relevant and still hold some weight as a material consideration, depending upon the stage reached.

Scottish Planning Policy

4.5.11 The latest Scottish Planning Policy (SPP) [13] was published in June 2014 and is a statement of Scottish Minister's priorities. It will be a material consideration in the determination of this application albeit there is now a policy lag between the 2014 SPP and the more recent SES, Onshore Wind Policy Statement (OWPS), which in turn pre-date the declaration of climate emergency and statutory Net Zero targets.

4.5.12 SPP currently highlights that the planning system is essential to achieving the Scottish Government's central purposes of increasing sustainable economic growth, with regard to principles of sustainable development as outlined in the Planning etc. (Scotland) Act 2006. Decisions made through the planning system should, amongst other things, contribute to the reduction of greenhouse gas emissions in line with published commitments (at that time to reduce emissions by 42% by 2020 and 80% by 2050), contribute to reducing consumption and to the development of renewable energy generation opportunities. This need to tackle climate change is recognised as a principal challenge of sustainable economic growth, albeit it must be noted that targets have increased substantially since SPP was published in 2014. There is in consequence a notable shift in position and context between the SPP and more recent SES and OWPS in terms of the extent to which onshore is expected and needs to contribute towards these increased targets.

4.5.13 The SPP also introduces a presumption in favour of development that contributes to sustainable development, and sets out in paragraph 33 the weight which should be given to this where Development Plans have become outdated.

4.5.14 Under the SPP to achieve the "right development in the right place" development plans, policies and decisions that consider onshore wind should:

- Give due weight to net economic benefit and respond to economic issues, challenges and opportunities, as outlined in local economic strategies;
- Support the delivery of energy infrastructure;
- Support climate change mitigation and adaption;
- Have regard to the principles for sustainable land use set out in the Land Use Strategy [14]; and
- Avoid over-development and protect the amenity of new and existing development.

4.5.15 Other principles relevant to the determination of applications include the protection and enhancement of the cultural and natural environment, including biodiversity and landscape; to maintain, enhance and promote access to open space and recreation opportunities; and to take into account the implications of development for water, air and soil quality.

4.5.16 The SPP states that the planning system should "*take every opportunity to create high quality places by taking a design-led approach*". The SPP aims to achieve this through the use of a "*holistic approach that responds to and enhances the existing place while balancing the costs and benefits of potential opportunities over the long term*". This holistic approach considers the relationships between the four outcomes of the new SPP:

- A successful, sustainable place;
- A natural, resilient place;
- A connected place; and
- A low carbon place.

4.5.17 Those subject policies that are relevant to this application are outlined in the sections below.

A Successful, Sustainable Place

4.5.18 The SPP recognises the importance of supporting sustainable economic growth and regeneration, setting out the role that the Scottish Government expects the planning system to play in the sustainable economic growth of Scotland.

Rural Development

4.5.19 The overall approach advocated in the SPP is that of a proactive stance to development in rural areas. The Planning System should:

- *"In all rural and island areas promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces"; and*
- *"Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality".*

A low Carbon Place

4.5.20 Planning Authorities should support the development of renewable energy technologies, guide development to appropriate locations and provide clarity on the issues that will be taken into account when specific proposals are assessed. The development plans should be supportive of all scales of energy development to ensure that an area's renewable energy potential is realised and to make clear the factors that will be taken into account in decision making.

4.5.21 The energy and climate change policies referred to above are discussed within the SPP as part of the planning system. The SPP states that the planning system should:

"*Support the transformational change to a low carbon economy, consistent with national objectives and targets*.

Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity."

4.5.22 Within A Low Carbon Place', a sub-section relating to onshore wind specifies that:

"*Planning authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities*".

4.5.23 A spatial framework provided within the SPP which should be followed "*in order to deliver consistency nationally*". The SPP spatial framework is made up of three groups.

4.5.24 Group 1 are areas where wind farms will not be acceptable, these areas are made up of National Parks and National Scenic Areas.

4.5.25 Group 2 are areas of significant protection where wind farms may be appropriate in some circumstances. Consideration will be required where Proposed Developments are to be located within these areas to

[13] Available at: http://www.scotland.gov.uk/Publications/2014/06/5823 (accessed 19/03/2019)

[14] Available at: http://www.scotland.gov.uk/Topics/Environment/Countryside/Landusestrategy (accessed 19/03/2019).

"*demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation*". Group 2 areas include 'National and International designations', i.e. World Heritage Sites, Natura 2000 and Ramsar sites, National Nature Reserves, Sites of Special Scientific Interest, sites identified in the Inventory of Gardens and Designed Landscapes, and Sites in the Inventory of Historic Battlefields; 'Other nationally important mapped environmental interests', i.e. areas of wild land and carbon rich soils, deep peat and priority peatland habitat; and 'Community separation for consideration of visual impact, i.e.' an area not exceeding 2 km around cities, towns and villages identified on the local development plan with an identified settlement envelope or edge.

4.5.26 Group 3 are areas with potential for wind farm development which includes all areas beyond Groups 1 and 2. Within these areas "*wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria*".

4.5.27 Following the above criteria, the Proposed Development is situated predominately within a Group 3 area. According to the NatureScot Carbon and Peatland Map[15], the site is covered in soils ranging from Class 1 to 5 which includes carbon rich soils, deep peat and priority peatland habitat and therefore some parts of the Proposed Development Area come under Group 2. Assessment of peat and carbon is provided in this EIAR, particularly Chapter 8.

4.5.28 The 2014 SPP [16] has included locally designated landscape sites as potential areas for wind energy (Group 3).

National Planning Framework 4 (NPF4)

4.5.1 Following the introduction of the Planning (Scotland) Act 2019, attention has now turned to the long-awaited publication of the new NPF4. Under the 2019 Act the NPF4 will have an enhanced status in the decision-making process and will also need to have regard to climate change targets. SPP will form part of NPF4. Whilst the publication of the draft NPF4 has been delayed, it is expected that the NPF4 will provide much greater alignment between national energy/climate change policy and planning policy and in doing so provide a favourable policy framework for onshore wind and other renewables (see 4.2.29-4.2.31 for details).

Planning Circulars and Advice Notes

4.5.2 Planning Circulars and Planning Advice Notes (PAN) have been considered during the evolution of the project as good practice.

4.5.3 Planning Circular 1 2017 - The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 has been considered to ensure the EIAR produced for the Proposed Development is proportionate and fit for purpose as per this Circular although it must be noted that the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 apply to the Proposed Development which are complied with.

4.5.4 Specific Advice Sheet: Onshore Wind Turbines[17] has replaced PAN 45 - Renewable Energy. It acts as a web-based, and regularly updated, source of specific advice for the development of onshore wind farms and also recognises substantial growth and increasing diversity in project scale. Table 12.1 below presents other relevant PAN.

Table 4.1: PAN

Other Relevant PAN	Details
PAN 51 – Planning, Environmental Protection and Regulation[18]	Published in October 2006 and supports existing policy on the role of the planning system in relation to the environmental protection regimes.
PAN 60 – Planning for Natural Heritage[19]	Provides advice on how development and the planning system can contribute to the conservation, enhancement, enjoyment and understanding of Scotland's natural environment and encourage developers and planning authorities to be positive and creative in addressing natural heritage issues.
PAN 68 – Design Statements[20]	Published in August 2003 and explains the design statement process.
PAN 73 – Rural Diversification[21]	Defines diversification as helping to broaden the economic activity of rural areas, providing opportunity and creating a more balanced and stable economy. It is suggested that one of the means by which planners can support rural diversification is by addressing issues of accessibility, infrastructure, scale and design.
PAN 75 – Planning for Transport[22]	Published in August 2005 and aims to provide guidance for improving transport integration with new developments.
PAN 3/2010 – Community Engagement[23]	Published in August 2010. It provides guidance for interacting with the public appropriately and early in the planning process.
PAN 1/2011 – Planning and Noise[24]	Published in March 2011. It includes information about noise from wind turbines and links to web-based planning advice specifically for Onshore Wind Turbines. This document provides advice on 'The Assessment and Rating of Noise from Wind Farms' (ETSU-R-97) published by the former Department of Trade and Industry and the findings of the Salford University report into Aerodynamic Modulation of Wind Turbine Noise.
PAN 2/2011 – Planning and Archaeology[25]	Replaces PAN 42 and sits alongside SPP, Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment Guidance Notes. PAN 2/2011 includes advice on the handling of archaeological matters within the planning process. For monuments scheduled under the Ancient Monuments and Archaeological Areas Act 1979 there are specific controls for works set out by SHEP and managed by Historic Environment Scotland.

[15] Available online: https://map.environment.gov.scot/Soil_maps/?layer=10 (last accessed 29/10/2020)

[16] Available at: http://www.scotland.gov.uk/Publications/2013/04/1027 (accessed 19/03/2019).

[17] Available at: http://www.scotland.gov.uk/Resource/0044/00440315.pdf (accessed 21/03/2019).

[18] Available at: http://www.gov.scot/Publications/2006/10/20095106/0 (accessed 21/03/2019).

[19] Available at: http://www.gov.scot/Publications/2000/08/pan60-root/pan60 (accessed 21/03/2019).

[20] Available at: http://www.gov.scot/Publications/2003/08/18013/25389 (accessed 21/03/2019).

[21] Available at: http://www.gov.scot/Publications/2005/02/20638/51727 (accessed 21/03/2019).

[22] Available at: http://www.gov.scot/Publications/2005/08/16154453/44538 (accessed 21/03/2019).

[23] Available at: http://www.gov.scot/Publications/2010/08/30094454/0 (accessed 21/03/2019).

[24] Available at: http://www.gov.scot/Publications/2011/02/28153945/0 (accessed 21/03/2019).

[25] Available at: http://www.gov.scot/Resource/Doc/355385/0120020.pdf (accessed 21/03/2019).

4.6 DEVELOPMENT PLANS AND OTHER LOCAL POLICY

4.6.1 As noted previously, the Proposed Development spans two LPA areas; South Lanarkshire and Dumfries & Galloway. Therefore, both LPA's Local Development Plans (LDP) must be considered.

4.6.2 The statutory provisions in section 25 of the 1997 Act which establish the status of the development plan when making decisions under the Planning Acts do not apply to the Section 36 determination and related grant of any deemed planning permission. Consequently, there is no requirement for the determination to be made in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding, it is acknowledged that as the application seeks approval for a form of development, the relevant provisions of the development plan are relevant considerations in relation to the Section 36 determination process. It is for the decision maker to determine the weight to be attached to each of the relevant considerations, which would inevitably include the relevant provisions of the development plan. In a case such as this, the requirements of paragraphs 32 and 33 of the SPP also come into play in terms of the relative weight to be afforded to the development plan when considered against the presumption in favour of sustainable development. This in turn requires consideration to be given to whether the LDP is out of date on relevant matters.

4.6.3 Assessment of the Proposed Development against each LDP is provided in the Planning, Design and Access Statement which accompanies the application.

Clyde Plan 2017

4.6.4 Clyde Plan provides the strategic element of the Development Plan in the South Lanarkshire area. Chapter 7 of Clyde Plan sets out the approach which has been adopted to develop the City Region as a Low Carbon Place, including the overall approach to Climate Change, Delivering Heat and Electricity and the Onshore Wind Spatial Framework.

South Lanarkshire Local Development Plan 2015

4.6.5 This LDP was formally adopted on 29 June 2015 and sets out to guide future developments and land uses within towns, villages and rural areas within the constituency. It also gives guidance on and seeks to ensure that the right development happens in the right places, aligning itself with the SPP. The plan highlights that these future developments will be sustainable.

4.6.6 The key policy requirements of the current LDP are outlined in the following paragraphs below.

4.6.7 The LDP recognises that climate change is a pressing issue globally and outlines polices specific to renewable energy developments.

4.6.8 Throughout the South Lanarkshire Local Development Plan there is the need to address the land use issues arising from climate change. The LDP aims to address key themes such as climate change in their sustainable development strategy and carbon management plan. These aims are listed below:

- *Ensure development is sustainable located to make best use of public transport and the established social and economic infrastructure and no significant adverse impact on the environment.*
- *Makes new buildings as carbon neutral as possible*
- *Safeguard and enhances green networks*
- *Reduces waste*
- *Reduces South Lanarkshire reliance on fossil fuels*
- *Supports the use of renewable, low and zero carbon energy technologies*

4.6.9 Policy 2 Climate change of the LDP states that any new development where possible must seek to minimise and mitigate against the effects of climate change by:

- *Being sustainably located*
- *Utilising renewable energy resources*
- *Being designed to be as carbon neutral as possible*
- *Using where appropriate low, and zero carbon energy generating technologies that reduce predicted carbon dioxide emissions to meet current building standards within new buildings*
- *Avoiding areas of medium to high flood risk*
- *Having no significant impact on water, soil, air quality and biodiversity*
- *Minimising waste*

4.6.10 The LDP seeks to develop its renewables sector to help support growth in the South Lanarkshire area, aligning its renewable energy policy with SPP. The LDP also recognises the importance of the renewable energy sector and its contribution to the economy.

4.6.11 The Policy 19 Renewable energy states that renewable energy infrastructure development will be supported subject to an assessment against the principles set out in the SPP (2014). The Proposed Development will also be assessed against the council's statutory supplementary guidance which aligns with the 2014 SPP, this contains the spatial framework for onshore wind energy. Any development proposals must also accord with other relevant policies within the LDP.

4.6.12 The LDP contains other policies relevant to the Proposed Development which have the overarching aim to encourage prosperous and sustainable communities and businesses, balance with protecting and improving the quality of the environment. These are listed below:

- Policy 1 Spatial Strategy
- Policy 3 Green Belt and rural area
- Policy 4 Development management and place making
- Policy 5 Community infrastructure assessment
- Policy 6 General urban/area settlements
- Policy 7 Employment
- Policy 11 Economic and regeneration
- Policy 15 Natural and historic environment
- Policy 16 Travel and Transport
- Policy 18 Waste

South Lanarkshire Supplementary Guidance

4.6.13 The South Lanarkshire Landscape Capacity Study for Wind Energy (SLLCSWE) supports South Lanarkshire Council's Supplementary Guidance 10: Renewable Energy (SG10). This study provides a high-level guide for the capacity of the South Lanarkshire landscape to accommodate wind energy development including the assessment of cumulative landscape capacity. The study assesses landscape sensitivity and the value of the different Landscape Character Types (LCTs) and Landscape Character Areas (LCAs) in South Lanarkshire and provides guidance to wind farm developers.

4.6.14 The Tall Wind Turbines: Landscape Capacity, Siting and Design Guidance Addendum to Landscape Capacity Study for Wind Energy 2016 (2019) was produced in 2019 in response to turbines now being larger than envisaged in the previous guidance.

4.6.15 Detailed assessment of the Proposed Development's landscape and visual effects is provided in EIAR Chapter 5: Landscape and Visual Impact Assessment.

South Lanarkshire Sustainable Development and Climate Strategy

4.6.16 South Lanarkshire Council has agreed to take action in responding to climate change by declaring to revise the Council's Sustainable Development and Climate Change Strategy. The aim of this strategy is to meet or exceed the national targets for net zero emissions by 2045 for Scotland and 2050 for the UK. The Council has also agreed to establish a Committee on Climate Change and Sustainability.

South Lanarkshire Proposed LDP

4.6.17 A proposed South Lanarkshire Local Development Plan 2 has been submitted to the Scottish Government Planning and Environmental Appeals Division (DPEA) for examination and is programmed for adoption in 2021.

Dumfries and Galloway Local Development Plan (LDP2) 2019

4.6.18 The Dumfries and Galloway Local Development Plan (LDP2) was adopted on 03 October 2019. The LDP provides a planning framework for the future use and development of land within Dumfries and Galloway, creating a backdrop to guide the location of development over the next 10 years alongside setting out development opportunities and ways to enhance the urban and rural environment. The overarching principle of the LDP is that:

"*all development proposals should support sustainable development, including the reduction of carbon and other greenhouse gas emissions".*

4.6.19 The LDP recognises that climate change is a pressing issue globally and outlines polices specific to renewable energy developments. The LDP provides a spatial framework for development of wind energy and two policies directly relevant to the Proposed Development; Policies IN1 and IN2. As noted earlier, the Proposed Development is located primarily within the Group 3 area with potential for wind farm development albeit with pockets of NatureScot mapped carbon rich soils/peatland which are categorised as Group 2.

4.6.20 Policy IN1 – 'Renewable Energy', the policy states that the Council will support development proposals for all renewable energy generation and/or storage which are located, sited and designed appropriately.

4.6.21 The acceptability of the proposal 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*".

4.6.22 The key DGC policy of relevance to the Proposed Development is Policy IN2: Wind Energy. This policy indicates support for development where it can be accommodated without unacceptable significant adverse effects and cross references other relevant polices.

4.6.23 Policy IN2 – Wind Energy, is split into two parts. Part 1 states that the acceptability of any proposed wind energy development will be assessed against a defined list of criteria.

4.6.24 The LDP seeks to develop its renewables sector to help support growth in the Dumfries and Galloway area, aligning its renewable energy policy with SPP. The LDP also recognises the importance of the renewable energy sector and its contribution to the economy.

4.6.25 Part 2 of policy IN2 - Wind Energy states that wind energy developments will be supported when appropriately sited and are of the right design. Wind farm developments should also take into account the spatial framework provided within the plan, which outlines appropriate locations.

4.6.26 The LDP contains other policies relevant to the Proposed Development which have the overarching aim to encourage prosperous and sustainable communities and businesses, balance with protecting and improving the quality of the environment. These are listed below:

- OP1 – Development Considerations
- OP2 – Design Quality and Placemaking
- OP3 – Developer Contributions
- ED9 – Tourism
- HE4 – Archaeologically Sensitive Areas
- HE6 – Gardens and Designated Landscapes
- NE2 - Regional Scenic Areas
- NE6 - Forestry and Woodland
- NE7 – Trees and Development
- IN11 – Telecommunications
- T1 – Transport Infrastructure

Dumfries and Galloway Supplementary Guidance: Wind Energy Development February 2020

4.6.27 The SPG is intended to help guide developers to appropriate areas for development and provide additional information for planners to assess a wind farm proposal. It provides further detail in support of the development management considerations in Policy IN2: Wind Energy which the Proposed Development will be assessed against.

Dumfries and Galloway Wind Farm Landscape Capacity Study

4.6.28 The Dumfries and Galloway Wind Farm Landscape Capacity Study (DGWFLCS) is used to inform decision making and is referred to as Appendix C of Part 1 Wind Energy Development: Development Management Considerations Supplementary Guidance. The document seeks to set out the key characteristic and sensitivities to wind farm development within the Dumfries and Galloway administrative area. The document was updated in February 2020 prior to NatureScot releasing updated guidance on landscape sensitivity assessment in Scotland (NatureScot, July 2020[26]).

4.6.29 The potential landscape and visual effects of the Proposed Development are assessed in EIAR Chapter 5: Landscape and Visual Impact Assessment.

Dumfries and Galloway Climate Emergency

4.6.30 In 2019 Dumfries and Galloway Council declared its own climate emergency and has embarked on baseline studies to inform future policy within the area. The Climate Emergency Declaration is a 12-point plan which aims to set the target of emitting net zero carbon in the region by 2025.

4.7 SUMMARY

4.7.1 This chapter highlights the key policies at international, national and local level that relate to renewable energy which the Proposed Development will generate.

4.7.2 The chapter sets out the significant and growing body of policy and legislation which exists around the pressing need to address Climate Change and of the role of renewable energy generation in helping both Scottish and UK governments to meet their respective net zero targets. This includes but is not limited to the Scottish Energy Strategy (2017) and the associated Scottish Onshore Wind Energy Policy Statement (2017). Whilst these have yet to be formally incorporated into National Planning policy in the form of the emerging NPF4, there is a clear direction of travel from the Scottish Government which suggests that this now needs to happen. In the meantime, whilst there is an associated lag in the corresponding policy produced at regional and local level, more recent national policy needs to be considered.

[26] Landscape Sensitivity Assessment – Guidance for Scotland, Consultation draft (NatureScot, July 2020)

4.7.3 The carbon balance assessment which appends this chapter demonstrates the carbon payback time and carbon emissions savings associated with the Proposed Development. Set against fossil fuel electricity generation, the Proposed Development will **payback its carbon within 1.7 years** and save **over 3,743,124 tonnes** of **CO_2 emissions.** As the negative payback period represents approximately 6% of the operational period and the positive contribution 94% it is possible to conclude that the positive contribution is statistically significant. The proposed development therefore illustrates a significantly positive net impact in terms of its contribution towards the reduction of greenhouse gas emissions from energy production.