

## 5 Legislative & Policy Framework

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## 5 Legislative & Policy Framework

### 5.1 Introduction

5.1.1 This Chapter of the EIA Report 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 include an assessment of the accordance of the Proposed Development with reference to planning policy: a separate Planning Statement has been prepared to support the application and should be referred to for a detailed planning policy appraisal.

5.1.2 This Chapter has been written by David Bell BSc (Hons) DipUD MCIHT MRTPI a Chartered Town Planner and Director of David Bell Planning Ltd. Mr Bell has 30 years' experience of planning and development matters and is a specialist in renewables and onshore wind planning.

### 5.2 The Legislative Framework

#### ***The Electricity Act 1989***

5.2.1 The Proposed Development has an indicative overall installed capacity of 59.4 Megawatts (MW). In Scotland, onshore renewable energy developments that have capacity to generate over 50 MW require consent from the Scottish Ministers under the Electricity Act 1989 (the Electricity Act). In such cases the Planning Authority is a statutory consultee in the development management process and procedures.

5.2.2 In an application under Section 36 of the Electricity Act 1989 (the Electricity Act) the Development Plan does not have primacy in the decision-making process. The provisions of Schedule 9 of the Electricity Act are relevant to the assessment of the Proposed Development.

5.2.3 Schedule 9 sub-paragraph 3 (1) of the Electricity Act advises that a license holder (or person authorised by exemption):

*“(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and*

*(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.”*

5.2.4 Under sub-paragraph 3(2), in considering proposals, the Scottish Ministers are to have regard to:

*“(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and*

*(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of the sub-paragraph.”*

5.2.5 At sub-paragraph 3(3), the Act indicates that, without prejudice to the above provisions, a licence holder and the Scottish Ministers *“shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.”*

5.2.6 The provisions of Schedule 9 of the Electricity Act set out a number of features to which regard must be had and such features have been addressed in the EIA process.

#### ***The Town & Country Planning (Scotland) Act 1997***

5.2.7 The principal planning statute in Scotland is the Town and Country Planning Act (Scotland) 1997 (the Planning Act) as amended by The Planning etc. (Scotland) Act 2006 and by the Planning (Scotland) Act 2019.

5.2.8 Section 57(2) of the Planning Act provides:

*“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 Scottish Ministers may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to any conditions (if any) as may be specified in the direction”.*

5.2.9 Section 25 of the Planning Act states that:

*“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.*

5.2.10 Section 57(2) of the Planning Act makes no reference to the provisions of section 25 which requires regard to be had to the provisions of the Development Plan. Courts have confirmed that section 57(3) does not apply section 25 to a decision to make a direction to grant deemed planning permission pursuant to section 57(2)<sup>1</sup>.

5.2.11 The Scottish Ministers will determine the application having regard to the statutory duties in Schedules 8 and 9 of the Electricity Act, so far as relevant, and any other relevant material considerations, one of which will be relevant aspects of the statutory Development Plan.

## 5.3 Renewable Energy Policy: Summary

5.3.1 In recent years International, United Kingdom (UK) and Scottish Government policies have focussed increasingly on concerns about climate change and the need to reduce greenhouse gas emissions. Each tier of Government has developed targets, policies and actions to achieve targets to deal with the climate crisis and generate more renewable energy and electricity. The framework of international agreements, legally binding targets and climate change global advisory reports is the foundation upon which national energy policy and emissions reduction law is based.

5.3.2 There is unequivocal, clear and consistent policy support at all levels, from international to local, for the deployment of renewable energy generally (including onshore wind) to combat the global heating crisis, diversify the mix of energy sources, achieve greater security of supply, and to attain legally binding emissions reduction targets.

5.3.3 The UK Government retains responsibility for the overall direction of energy policy, although some elements are devolved to the Scottish Government. The UK Government has published a series of policy documents setting out how targets can be achieved. Onshore wind generation, located in Scotland, is identified as a ‘vital’ component to achieve these various goals.

5.3.4 The Scottish Government has published a number of policy documents and its own targets. The most relevant policy, legislative documents and more recent statements published by the Scottish Government include:

- The Letter from Chief Planner to all Heads of Planning in relation to energy targets and Scottish Planning Policy (SPP) (November 2015);
- The Scottish Energy Strategy (December 2017);
- The Onshore Wind Policy Statement (December 2017);
- The Scottish Government's declaration of a Climate Emergency (April 2019);
- The Scottish Climate Change Plan Update (2020);
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the legally binding net zero target for 2045 and interim targets for 2030 and 2040;
- The Scottish Government's 'Programme for Government' (September 2021); and

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<sup>1</sup> William Grant & Sons Distillers Limited, Court of Session [2012] CSIH 28

- The Onshore Wind Policy Statement Refresh: Consultative Draft (October 2021).
- 5.3.5 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 S.1.a1 requires that *“The Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline”* (the target is known as the “net-zero emissions target”). The target year is 2045 and the Act also sets out challenging interim targets. Section 3.2.1 of the act requires that:
- “The Scottish Ministers must ensure that the net Scottish emissions account for the year—*
- (a) 2020 is at least 56% lower than the baseline,*
  - (b) 2030 is at least 75% lower than the baseline, and*
  - (c) 2040 is at least 90% lower than the baseline.”*
- 5.3.6 It is important to note that these targets are minimum targets, they are not maximums or aspirations. The targets legally bind the Scottish Ministers and have largely been legislated to set the framework for Scotland’s response to the Climate Emergency.
- 5.3.7 The Proposed Development relates to the generation of electricity from renewable energy sources and comes as a direct response to national planning and energy policy objectives.
- 5.3.8 The Proposed Development will make a contribution to the attainment of emissions reduction, renewable energy and electricity targets at both the Scottish and UK levels. Detailed reference to the renewable energy legislative and policy framework is provided in the Planning Statement.

## 5.4 National Planning Policy

### ***The National Planning Framework***

- 5.4.1 National Planning Framework 3 (2014) (NPF3) is a long-term strategy for Scotland. It is the spatial expression of the Scottish Government’s Economic Strategy, and of plans for development and investment in infrastructure.
- 5.4.2 Part of the vision is of Scotland as a low carbon place, where the opportunities arising from the ambition to be a world leader in low carbon energy generation have been seized. NPF3 is informed by, and aims to help achieve, the Scottish Government’s climate change and renewable energy targets.
- 5.4.3 NPF3 acknowledges that the energy sector accounts for a significant share of the country’s greenhouse gas emissions, and that addressing this requires capitalising on Scotland’s outstanding natural advantages, including its significant wind resource. NPF3 makes it clear that onshore wind will continue to play a significant role in de-carbonising the energy sector and diversifying energy supply.
- 5.4.4 National Planning Policy Framework 4 (NPF4) is under preparation and will include all aspects of national planning policy as per the provisions of the Planning (Scotland) Act 2019. The NPF4 ‘Position Statement’ was published for consultation in November 2020 and a consultation draft NPF4 was issued in November 2021. This is referenced below.

### ***Scottish Planning Policy***

- 5.4.5 Scottish Planning Policy (2014) (SPP) is the Scottish Government policy on how nationally important land use planning matters should be addressed.
- 5.4.6 SPP contains a number of principal policies, one of which expresses *“a presumption in favour of development that contributes to sustainable development”*. Paragraph 28 states that:
- “the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost”*.

- 5.4.7 Paragraph 29 highlights a series of criteria which should guide decision-making in this regard and the following provisions are considered relevant to the Proposed Development:
- Net economic benefit;
  - Economic issues, challenges and opportunities;
  - Good design and qualities of successful places;
  - Delivery of infrastructure;
  - Climate change mitigation and adaptation;
  - Principles of sustainable land use as set out in the land use strategy;
  - Protecting, enhancing and promoting cultural heritage;
  - Protecting, enhancing and promoting natural heritage and landscape;
  - Reducing waste; and
  - Over-development, amenity and effects on water, soil and air.
- 5.4.8 To support in achieving the outcome of making Scotland a low carbon place, the planning system should support the change to a low carbon economy. It should support the development of electricity generation from a diverse range of renewable sources. It should guide development to appropriate locations and advise on the issues that should be taken into account when specific proposals are being assessed.
- 5.4.9 Onshore wind is referred to specifically in paragraphs 161 to 166 (development planning considerations) and paragraphs 169 to 174 (development management considerations) of SPP within the 'Low Carbon Place' outcome. Development planning guidance for onshore wind includes reference to the need for planning authorities to set out in their development plans a Spatial Framework identifying those areas that are likely to be most appropriate for onshore wind farms. Table 1 in SPP provides guidance on how spatial frameworks should be set out. They should identify three types of areas including:
- Group 1: Areas where wind farms will not be acceptable (National Parks and National Scenic Areas);
  - Group 2: Areas of significant protection (i.e. national and international designations, nationally important environmental interests, community separation for considering visual impact); and
  - Group 3: Areas with potential for wind farm development (where wind farms are likely to be acceptable subject to consideration of details).
- 5.4.10 More generally, SPP advises that the siting and design of development should take account of local landscape character. Decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Applicants should seek to minimise adverse impacts through careful planning and design. Planning permission should be refused where the nature or scale of a development would have an unacceptable impact on the natural environment.
- 5.4.11 Beyond the Spatial Framework for wind farms the following considerations, outlined in paragraph 169, should be taken into account (where applicable) when determining development proposals:
- Net economic impact;
  - Scale of contribution to renewable energy generation targets;
  - Effect on greenhouse gas emissions;
  - Cumulative impacts;
  - Impact on communities and dwellings (including visual impact, residential amenity, noise and shadow flicker);

- Landscape and visual impacts (including wild land);
- Effect on natural heritage (including birds);
- Impacts on carbon rich soils (using carbon calculator);
- Impact on public access (including long distance walking and cycling routes and scenic routes);
- Impacts on the historic environment (including scheduled monuments, listed buildings and their setting);
- Impacts on tourism and recreation;
- Impacts on aviation and defence interests and seismological recording;
- Impacts on telecommunications and broadcasting installations;
- Impacts on transportation (road traffic and adjacent trunk roads);
- Effects on hydrology (water environment and flood risk);
- Opportunities for energy storage; and
- Conditions relating to decommissioning of development, including ancillary infrastructure and site restoration.

### ***The Draft Fourth National Planning Framework ‘Scotland 2045’***

- 5.4.12 The draft NPF4 was published in November 2021. Once approved, it will replace both NPF3 and SPP and will become part of the statutory Development Plan and will directly influence planning decisions. Now that the document has been published it is a material consideration.
- 5.4.13 In the Ministerial Foreword, the Minister for Public Finance, Planning and community Wealth states: *“This, our fourth National Planning Framework sets out how our approach to planning and development will help to achieve a net zero, sustainable Scotland by 2045.”*
- 5.4.14 The draft NPF4 (part 2, page 44) continues the planning policy approach of identifying ‘national developments’ which refers to the allocation of national development status to certain classes of development. The draft NPF4 states that *“national developments are significant developments of national importance that will help to deliver our spatial strategy”*.
- 5.4.15 18 national developments are proposed to support the delivery of the Spatial Strategy and it has set out that *“this designation means that the principle of the development does not need to be agreed and later consenting processes, providing more certainty for communities, business and investors”*.
- 5.4.16 There are three categories of national development proposed, namely ‘liveable places, productive places and distinctive places’. Within the ‘productive places’ category is proposed national development 12 entitled ‘strategic renewable electricity generation and transmission infrastructure’.
- 5.4.17 In terms of designation and classes of development, it is set out that a development within one or more of the classes of development set out in the NPF4 and that is of a scale or type that would otherwise have been classified as ‘major’ by the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, is designated as a ‘national development’ - these include: *“Electricity generation, including electricity storage, from renewables of or exceeding 50 megawatts capacity”*.
- 5.4.18 Part 3 of the draft NPF contains proposed new ‘National Planning Policy’ and with regard to sustainable places, it sets out that:
- 5.4.19 The draft policy of particular relevance to the Proposed Development is Policy 2 entitled ‘Climate Emergency’ this states at Part A that *“when considering all development proposals significant weight should be given to the global climate emergency”*.
- 5.4.20 Under the theme of ‘productive places’ (page 90) is draft Policy 19 in relation to ‘Green Energy’.

5.4.21 The detailed wording of the proposed policies may well change as a result of the public consultation and through the Parliamentary process for NPF4. However, in terms of Policy 19 ‘green energy’ (page 90) the key elements of the policy as currently proposed, include the following:

- *“Local Development Plans should seek to ensure that an area's full potential for electricity and heat from renewable sources is achieved. Opportunities for new development, extensions and repowering of existing renewable energy development should be supported.*
- *Development proposals for all forms of renewable energy and low carbon fuels, together with enabling work such as transmission and distribution and energy storage, such as battery storage should be supported in principle.*
- *Development proposals for wind farms in National Parks and National Scenic Areas should not be supported.*
- *Outwith National Parks and National Scenic Areas and recognising the sensitivity of any other national or international designations, development proposals for new wind farms should be supported unless the impacts are identified (including cumulative effect) are unacceptable. To inform this, site specific assessments including where applicable environmental impact assessments (EIA) and landscape and visual impact assessments (LVIA) are required.*
- *Areas identified for wind farms should be suitable for use in perpetuity. Consent may be time limited, but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of immunity for adjacent communities.”*

5.4.22 The proposed section K of the policy sets out that specific considerations for green energy proposals will vary relative to the scale of the proposal and the area characteristics. Reference is then made to 17 considerations which replicate those set out in the current SPP at paragraph 169.

## 5.5 National Planning Advice

5.5.1 Planning Advice Notes (PANs) and Specific Advice Sheets set out detailed advice from the Scottish Government in relation to a number of planning issues. Relevant PANs and Specific Advice Sheets relevant to the Proposed Development are summarised in Table 5.1 below.

**Table 5.1 – Relevant PANs and Advice Notes**

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 Scottish Natural Heritage (now NatureScot) 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.
PAN 61 (2001) Sustainable Urban Drainage Systems	Good practice drainage guidance.



Title	Summary of Document
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.
Online Renewables Planning Advice - On Shore Wind Turbines (updated 2014)	<p>This Specific Advice Sheet provides an overview of the use of the carbon calculator in estimating the carbon savings resulting from wind farm developments.</p> <p>NB: Please note that this Specific Advice Sheet pre-dates SPP, so the areas covered therein in relation to 'spatial framework', 'spatial planning' and 'areas of search' are no longer relevant.</p>
PAN 51 Planning, Environmental Protection and Regulation (Revised 2006)	Details the role of the planning system in relation to the environmental protection regimes.
Flood Risk: Planning Advice (2015)	Provides advice on the role of the planning system and the assessment and management of flood risk.
Coronavirus (COVID-19): planning guidance on pre-application consultations for public events (April 2020)	Provides guidance on the effect of the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 which makes temporary suspension of public meetings / events and an alternative online consultation the expected practice.

## 5.6 The Development Plan and Relevant Policies

### ***The Development Plan***

- 5.6.1 The statutory Development Plan for the application site comprises:
- the South Ayrshire Local Development Plan (the “LDP”) (adopted September 2014); and
  - the Supplementary Guidance: Wind Energy (adopted December 2015).
- 5.6.2 The second Proposed South Ayrshire Local Development Plan (“PLDP2”) was published for consultation in September 2019. South Ayrshire Council (SAC), at a meeting held on 24 March 2020 considered comments submitted on that proposed plan and determined to make notifiable modifications to the document, i.e. PLDP2 – as modified (known as “MPLDP2”).
- 5.6.3 Having considered a report on the outcome of public consultation on MPLDP2 on 1 September 2020, SAC agreed to submit the MPLDP2 to the Scottish Ministers for formal Examination. MPLDP2 was submitted to the Scottish Government’s Department of Planning and Environmental Appeals for Examination on 12 December 2020.
- 5.6.4 Notwithstanding, the MPLDP2 gives an indication of SAC’s intent towards the stance it wishes to adopt in the consideration of planning applications in the future (subject to adoption of MPLDP2 in the future). However, at the present time, the MPLDP2 only has limited material status in the consideration of planning applications and with regard to this Section 36 application for the Proposed Development.

### ***Relevant Policies***

- 5.6.5 The SAC LDP policies set out in Table 5.2 are considered to be of most relevance to the Proposed Development.

**Table 5.2 – Relevant LDP Policies**

<b>Policy Topic</b>	<b>Policy</b>
Infrastructure	Renewable Energy Wind Energy
Natural Environment	Sustainable Development Natural Heritage Galloway and Southern Ayrshire Biosphere Landscape Quality Landscape Protection Woodland & Forestry Water Environment Air, Noise & Light Pollution Dark Skies
Historic Environment	Historic Environment Archaeology

Policy Topic	Policy
Transport	Landuse and Transport

5.6.6 These policies are set out below.

### **Infrastructure Policies**

#### Renewable Energy

*“We will support proposals for generating and using renewable energy in stand-alone locations, and as part of new and existing developments, if they will not have a significant harmful effect on residential amenity, the appearance of the area and its landscape character, biodiversity and cultural heritage.*

*Development proposals will not be permitted where they would adversely affect the integrity of a Natura 2000 site”.*

#### Wind Energy

*“We will support proposals if:*

- a. they are capable of being accommodated in the landscape in a manner which respects its main features and character (as identified in the South Ayrshire Landscape Wind Capacity Study or in any subsequent updates to that study), and which keeps their effect on the landscape and the wider area to a minimum (through a careful choice of site, layout and overall design);*
- b. they do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions;*
- c. they do not have any other significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker;*
- d. they do not have a significant detrimental effect on natural heritage features, including protected habitats and species, and taking into account the criteria in LDP policy: natural heritage;*
- e. they do not have a significant detrimental effect on the historic environment, taking into account the criteria in LDP policy: historic environment and LDP policy: archaeology;*
- f. they do not adversely affect aviation, defence interests and broadcasting installations; and*
- g. their cumulative impact in combination with other existing and approved wind energy developments, and those for which applications for approval have already been submitted, is acceptable.*

*We will produce supplementary guidance on wind farms, which will identify preferred areas of search, areas with potential constraints and areas requiring significant protection; and will provide more detail on how the above-mentioned criteria will be applied in assessing all proposals for wind farms and turbines. We will use the South Ayrshire Landscape Wind Capacity Study (or any subsequent updates to that study) to help us decide the effect of proposals on the landscape.*

*Development proposals will not be permitted where, either individually or cumulatively, they would adversely affect the integrity of a Natura 2000 site.”*

### **Natural Environment Policies**

#### Sustainable Development

*“We will support the principles of sustainable development by making sure that all development meets the following standards.*

- *Is appropriate in terms of its amenity impact, layout, scale, massing, design and materials in relation to its surroundings.*
- *Is designed to maximise energy efficiency through building siting, orientation and materials.*
- *Respects the character of the landscape.*
- *Respects, protects, and where possible, enhances natural, built and cultural heritage resources.*
- *Helps mitigate and adapt to the effects of climate change.*
- *Protects peat resources.*
- *Is appropriate to the local area in terms of road safety and effect on the transport network.*
- *Contributes to an efficient use of public services, facilities and infrastructure.*
- *Has sustainable urban drainage and avoids increasing (and where possible reduces) risks of or from all forms of flooding.*
- *Supports, and, where possible, improves the Central Scotland Green Network.*
- *Does not have a negative effect on air and water quality.*
- *Is not within Health and Safety Executive safeguard zones if this would lead to increased risk or danger.*
- *Is designed in a way that helps prevent crime.*

*Wherever possible, is in an accessible location, with opportunities for the use of public transport, and other sustainable transport modes including cycling and walking. Includes the use of micro-renewables, wherever appropriate and feasible.”*

#### Natural Heritage

##### *“International Designations*

*Development, either individually or in combination with other plans or projects, which is likely to have a significant effect on a designated or proposed Natura 2000 site (Special Protection Areas, Special Areas of Conservation) will be subject to an appropriate assessment of the implications for the site in view of the site’s conservation objectives. Development proposals will only be supported where the assessment concludes that:*

- a. it will not adversely affect the integrity of the site; or,*
- b. there are no alternative solutions, and there exist imperative reasons of overriding public interest, including those of a social or economic nature.*

*Where such a site hosts a priority habitat and/or priority species as defined by the Habitats Directive (92/43/EC), the imperative reasons of overriding public interest must relate to human health, public safety or beneficial consequences of primary importance to the environment. Other allowable exceptions are subject to the views of the European Commission (via Scottish Ministers).*

##### *National Designations*

*Development, either individually or in conjunction with other proposals, which would affect a designated or proposed Site of Special Scientific Interest will only be permitted where ecological appraisals have demonstrated to the satisfaction of the Council as planning authority that:*

- a. it will not adversely affect the integrity of the site or the qualities for which it has been designated; or,*
- b. any adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.*

#### *Local Designations*

*Development, either individually or with other proposals, which would affect the following local heritage sites and designations, shall only be supported where the developer can show that the integrity of the site will not be put at risk.*

- a. Local nature reserves;*
- b. Sites containing species protected by the Habitats Directive, Wildlife and Countryside Act 1981 or the Badgers Act 1992;*
- c. Wildlife sites;*
- d. Tree Preservation Orders;*
- e. Forest Parks;*
- f. Wildlife corridors; and*
- g. Ornithological sites.*

*In all instances, the Council will require development proposals to have regard to safeguarding features of nature conservation value including woodlands, hedgerows, lochs, ponds, watercourses, wetlands and wildlife corridors.*

#### *Protected Species*

*Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation.”*

#### *Galloway and Southern Ayrshire Biosphere*

*“We will support development that promotes the aims of the biosphere and shows an innovative approach to sustainable living and the economy, and supports improving, understanding and enjoying the area as a world-class environment.”*

#### *Landscape Quality*

*“We will maintain and improve the quality of South Ayrshire’s landscape and its distinctive local characteristics. Proposals for development must conserve features that contribute to local distinctiveness, including:*

- a. community settings, including the approaches to settlements, and buildings within the landscape;*
- b. patterns of woodland, fields, hedgerow and tree features;*
- c. special qualities of rivers, estuaries and coasts;*
- d. historic landscapes; and*
- e. skylines and hill features, including prominent views.”*

#### *Landscape Protection*

*“We will consider proposals within or next to Scenic Areas (as defined on the LDP environment map) against the following conditions.*

- a. The significance of impacts and cumulative impacts on the environment, particularly landscape and visual effects as informed by the Ayrshire Landscape Character Assessment (SNH 1998)”.  
b. How far they would benefit the economy.*
- c. Whether they can be justified in a rural location.”*

#### *Woodland and Forestry*

*“We will support proposals for woodland and forestry that are:*

- a. consistent with the objectives and main actions of the Ayrshire and Arran Woodland Strategy; and*

*b. sympathetic to the environmental, nature and wildlife interests of the area, and, wherever appropriate, provide recreational opportunities for the public.”*

#### Water Environment

*“We support the objectives of the Water Framework Directive (2000/60/EC). We will only allow development that meets these objectives and shows that:*

- a. it will not harm the water environment;*
- b. it will not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water); and*
- c. it will not harm the biodiversity of the water environment.”*

#### Air, Noise & Light Pollution

*“We will not allow development which would expose significant numbers of people to unacceptable levels of air, noise or light pollution.”*

#### Dark Skies

*“We will support the Galloway Forest Dark Sky Park, and will presume against development proposals within the boundaries of the park that would produce levels of lighting that would adversely affect its ‘dark sky’ status. The boundaries of the Dark Sky Park [and of the buffer zone] are shown on the map on page 40. Development will have to be in line with the supplementary guidance on lighting within the Galloway Forest Dark Sky Park, which we will produce jointly with the adjoining planning authorities and Forestry Commission Scotland. This will also provide guidance for proposed developments within the buffer zone which may have a lighting impact on the Dark Sky Park. [The supplementary guidance will define the geographical extent of the buffer zone.]”*

### **Historic Environment Policies**

#### Historic Environment

*“We will support development proposals, affecting the following heritage resources, if we believe the quality and design of the proposed development will protect, conserve and improve them.*

##### *Listed buildings of architectural and historic interest*

*We are in favour of protecting listed buildings and their settings, especially from inappropriate development, and will actively encourage their sensitive maintenance, restoration and reuse.*

##### *Conservation areas*

*All new development in, or affecting the setting of, a conservation area, has to improve or preserve the area’s character or appearance.*

*We will actively encourage and, where resources permit, implement upgrading and enhancement for conservation areas.*

*We will use conservation area appraisals and management plans to help make sure development is carried out to a consistent high standard.*

##### *Scheduled monuments*

*We will not accept development which would negatively affect the site or setting of a scheduled ancient monument.*

##### *Gardens and Designed Landscapes*

*We will not accept development which would negatively affect gardens and designed landscapes included in the Inventory of Gardens and Designed Landscapes in Scotland.*

#### *More guidance*

*We will follow the supplementary guidance on historic environment when considering all proposals which would affect our heritage resources. This gives detailed guidance on the following.*

- a. Principles of development affecting built heritage resources*
- b. Conservation area appraisals and management plans*
- c. Policies giving guidance on specific types of development.”*

#### Archaeology

*“We will only allow development which will negatively affect a known archaeological site, or archaeological resources discovered during the period of the local development plan, if developers can show that the benefits of the proposal will clearly outweigh the archaeological value of the site or feature.*

*To fully assess and understand the implications of development on archaeological sites, we will ask the advice of the West of Scotland Archaeological Service.”*

#### **Transport Policies**

##### Landuse and Transport

*“Development proposals should:*

- a. align with the Regional Transport Strategy and our Local Transport Strategy;*
- b. take appropriate measures to keep any negative effects of road traffic on the environment to a minimum;*
- c. ensure accessibility to local services is maintained and improved by the integration of transport networks linking services to local communities;*
- d. where otherwise in accordance with the LDP and where required to facilitate development, provide interventions to the strategic transport network to maintain the efficiency of the transport network for both users and operators;*
- e. where possible, closely link to existing and proposed walking, cycling and public transport networks;*
- f. ensure essential use of the private car is accommodated within the context of an integrated approach to transport;*
- g. safeguard existing car parking facilities, particularly strategic car parking facilities and those identified in the LDP strategy maps;*
- h. provide parking that reflects the role of the development, the location in which it is situated and the projected capability of existing parking facilities;*
- i. ensure roadside facilities for drivers, including snack bars, are directed to settlements, and especially town centres, with a preference for the use of permanent structures rather than mobile or temporary ones which are to be used on a long-term basis;*
- j. encourage freight to be transported by rail, sea or air rather than by road; and*
- k. meet the costs of new transport infrastructure and services (in cases where these would not be provided commercially) which are needed as a result of their development.*

*Green travel plans will be encouraged for all developments and, where appropriate, will be required for those with a significant effect on traffic and parking.”*

### ***Supplementary Guidance: Wind Energy (Adopted December 2015) & the South Ayrshire Landscape Capacity Study (2018)***

- 5.6.7 The purpose of this guidance is firstly to set out the spatial strategy for wind energy in line with the requirements of SPP. The strategy identifies areas within South Ayrshire which are afforded significant national protection and those areas within which there is potential for a range of wind turbine typologies. Secondly it provides guidance to developers on how the policy criteria within the LDP will be applied and the information the Council will seek from them when assessing their proposals.
- 5.6.8 The guidance states it has been informed by national planning policy, the South Ayrshire Landscape Wind Capacity Study and its supporting appendix, and the distribution of existing and consented wind farm and wind farm developments.
- 5.6.9 The guidance is structured in two parts. The first part establishes the Spatial Framework as per SPP. The second part provides further detail on how policy criteria that will be applied in the assessment of proposals.
- 5.6.10 In August 2012 the then Scottish National Heritage (SNH) in conjunction with the three Ayrshire Councils – commissioned landscape architects to produce a Landscape Wind Capacity Study (LWCS 2013). In December 2017, SNH – again in conjunction with the three Ayrshire Councils – commissioned an update to LWCS 2013 to take account of intervening changes in several key variables; particularly the relevant provisions of SPP (2014) relating to strategic, cross-boundary capacity, subsequent SNH guidance on the role of landscape capacity studies in addressing scope for changes in/replacement of existing wind turbines ('repowering') with larger turbines, industry trends for significantly greater standard turbine sizes, and the intervening changes to the landscape and visual baseline resulting from wind farms consented and/or constructed since 2013, both within South Ayrshire and neighbouring authorities, in close proximity to South Ayrshire.
- 5.6.11 LWCS 2018 is therefore in place and is understood to being used to inform a future review of the Wind Energy Supplementary Guidance (2015), as part of the wider ongoing preparation of Local Development Plan 2 (LDP2). LWCS 2018 is used to assist the determination of relevant applications, by aiding the assessment of the landscape and visual impact of wind energy proposals. Importantly, each application requires to be assessed on its own merits, and the effect of a proposed development on landscape character is not the sole consideration in assessing their overall landscape impact, and, in turn, landscape impact is one of a number of factors taken into account when considering planning or section 36 applications for wind energy developments.

## **5.7 Summary**

- 5.7.1 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 EIA Report in order to ensure that it provides the appropriate information for the consideration of the Section 36 application.
- 5.7.2 As noted, the policy appraisal for the Proposed Development is contained in a separate Planning Statement.



## 5.8 References

- Scottish Government (2014). National Planning Framework 3. Available at: <https://www.gov.scot/publications/national-planning-framework-3/>
- Scottish Government (2014) Scottish Planning Policy. Available at: <https://www.gov.scot/publications/scottish-planning-policy/>
- Scottish Government (2017). Onshore Wind Policy Statement. Available at: <https://www.gov.scot/publications/onshore-wind-policy-statement-9781788515283/>
- Scottish Government (2021). Onshore Wind Policy Statement Refresh: Consultative Draft. Available at Onshore wind - policy statement refresh 2021: consultative draft - gov.scot (www.gov.scot)
- Scottish Government (2020). Scotland's Fourth National Planning Framework Position Statement. Available at: <https://www.gov.scot/publications/scotlands-fourth-national-planning-framework-position-statement/>
- Scottish Government (2021) The Draft Fourth National Planning Framework. Available at <https://www.transformingplanning.scot/national-planning-framework/draft-npf4>
- South Ayrshire Council (adopted September 2014). South Ayrshire Local Development Plan. Available at: <https://archive.south-ayrshire.gov.uk/planning/local-development-plans/local-development-plan.aspx>
- South Ayrshire Council (adopted December 2015). Supplementary Guidance: Wind Energy.
- South Ayrshire Council (2018). Wind Landscape Capacity Study.
- Scottish Government (November 2015). Letter from Chief Planner to all Heads of Planning in relation to energy targets and Scottish Planning Policy. Available at: <https://www.gov.scot/publications/energy-targets-and-scottish-planning-policy-chief-planner-letter/>
- Scottish Government (December 2017). The Scottish Energy Strategy. Available at: <https://www.gov.scot/publications/scottish-energy-strategy-future-energy-scotland-9781788515276/>
- Scottish Government (December 2017). The Onshore Wind Policy Statement. Available at: <https://www.gov.scot/publications/onshore-wind-policy-statement-9781788515283/>
- Scottish Government (2020). The Scottish Climate Change Plan Update. Available at: <https://www.gov.scot/publications/securing-green-recovery-path-net-zero-update-climate-change-plan-20182032/>
- Scottish Government (September 2021). 'Programme for Government'. Available at: <https://www.gov.scot/programme-for-government/>

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