

5 Planning and Energy Policy Context

5.1. Introduction.....	5-2
5.2. The Statutory Framework.....	5-2
5.3. Renewable Energy Policy: Summary.....	5-3
5.4. National Planning Policy: National Planning Framework 4.....	5-4
5.5. National Planning Guidance.....	5-16
5.6. The Local Development Plan and Relevant Policies.....	5-17
5.7. Conclusions.....	5-22
References.....	5-23
Abbreviations.....	5-23

5. Planning and Energy Policy Context

5.1. Introduction

- 5.1.1. This Chapter of the Environmental Impact Assessment (EIA) Report describes the legislative and policy background relevant to the Proposed Varied Development. It refers to energy and planning policy at a national and local level. 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 to ensure that it provides the appropriate information for the consideration of the application.
- 5.1.2. This Chapter does not include an assessment of the accordance of the Proposed Varied Development against planning policy; a separate Planning Statement has been prepared to support the application and should be referred to for a detailed planning policy appraisal.

5.2. The Statutory Framework

- 5.2.1. The Proposed Varied Development will have an installed capacity of over 50 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 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 Varied Development.
- 5.2.3. Schedule 9, Sub-paragraph 3(2), requires the Scottish Ministers 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”.*
- 5.2.4. The matters referred to in Schedule 9 sub-paragraph 3(1) (a) and (b) of the Electricity Act do not apply to the Applicant, but the matters set out in sub-paragraph 3(1)(a) to which the Scottish Ministers must have regard are:
- “...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”.*
- 5.2.5. At sub-paragraph 3(3), the Scottish Ministers [are required to...]
- “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 by the Scottish Ministers and such features have been addressed in the EIA process.
- 5.2.7. The principal planning statute in Scotland is the Town and Country Planning Act (Scotland) 1997 (the 1997 Act) as amended by the Planning etc (Scotland) Act 2019 (the 2019 Act).
- 5.2.8. Section 57(2) of the 1997 Act 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 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 1997 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 1997 Act makes no reference to the provisions of section 25 which requires regard to be had to the provisions of the Development Plan. The Courts have confirmed that section 57(2) does not apply section 25 to a decision to make a direction to grant deemed planning permission pursuant to section 57(2)¹.
- 5.2.11. The Scottish Ministers will determine the application having regard to the statutory duties in Schedule 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 UK and Scottish Government policies have focused increasingly on concerns about climate change and the nature crisis. 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. In Scotland in particular, this is reflected in Policy 1 of National Planning Framework 4 (NPF4) which is entitled ‘Tackling the climate and nature crises’ and which requires that when considering all development proposals that significant weight is given to the global climate and nature crises. At the national level the Scottish Ministers have set a target to have a minimum installed capacity of 20 GW of onshore wind in Scotland by 2030.
- 5.3.2. Whilst the legislative framework for energy consents remains a reserved matter, the Scottish Government in response to climate change have set a clear strategic direction

¹ William Grant & Sons Distillers Limited, Court of Session [2012] CSIH 28.

for the deployment of renewable energy through policy and additional legislative provisions.

- 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, most recently in the Clean Power 2030 Action Plan published in December 2024 and the Onshore Wind Taskforce Strategy (2025).
- 5.3.4. Onshore wind generation in Scotland, is identified as an important technology to achieve various goals as set out in the Onshore Wind Policy Statement (2022) which clearly outlines the socio-economic and environmental benefits of onshore wind and its integral role in tackling climate change. Moreover, it states that *“deployment of onshore wind is mission critical for meeting our climate targets.”*
- 5.3.5. The Scottish Government has published a number of policy documents and has set its own targets through updated legislation. The most relevant policy, legislative documents and more recent policy statements published by the Scottish Government include:
- The Scottish Energy Strategy (2017);
 - The Scottish Government's declaration of a Climate Emergency (2019);
 - The Climate Change (Scotland) Act 2009 as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the Climate Change (Scotland) Act 2009 (Scottish Carbon Budgets) Amendment Regulations 2025 and the legally binding net zero target for 2045;
 - The Onshore Wind Policy Statement (OWPS) (2022);
 - The Draft Energy Strategy and Just Transition Plan (2023);
 - The Green Industrial Strategy (2024); and
 - The Climate Change Plan (2026).
- 5.3.6. The Proposed Varied Development relates to the generation of electricity from renewable energy sources and comes forward as a direct response to national planning and energy policy objectives which seek to encourage, promote and facilitate all forms of renewable energy. The Proposed Varied Development would be consistent with national policy and guidance and would make a very substantial contribution to the attainment of emissions reduction and renewable energy and electricity targets at both the Scottish and UK levels. All of the above documents provide a positive and facilitative framework for the development of renewable energy.

5.4. National Planning Policy: National Planning Framework 4

Introduction

- 5.4.1. National Planning Framework 4 (NPF4) came into force on 13 February 2023.

5.4.2. Section 13, of the Planning (Scotland) Act 2019 Act (the 2019 Act) amends Section 24 of the 1997 Act regarding the meaning of the statutory Development Plan, such that for the purposes of the 1997 Act, the Development Plan for an area is taken to consist of the provisions of:

- The National Planning Framework; and
- Any local Development Plan (LDP).

5.4.3. NPF4 therefore now forms part of the statutory Development Plan and should be afforded substantial weight. A key provision of the 2019 Act is that in the event of any incompatibility between the provisions of NPF4 and a provision of a Local Development Plan (LDP), then whichever of them is the later in date will prevail. That will include where a LDP is silent on an issue that is now provided for in NPF4.

5.4.4. In Dumfries and Galloway the development plan comprises the Dumfries and Galloway Local Development Plan 2 (adopted October 2019) and the LDP2 'Wind Energy Development: Development Management Considerations' Supplementary Guidance (adopted in February 2020).

5.4.5. As explained, for the purposes of Section 36 decision making, Section 25 of the 1997 Act is not engaged, NPF4 however forms a significant material consideration in the overall decision-making process.

National Developments

5.4.6. NPF4 sets the approach to planning and development to help achieve a net zero, sustainable Scotland by 2045. It continues the planning policy approach of identifying 'national developments' which refers to the allocation of national development status to certain classes of development. There are three categories of national development proposed namely 'liveable places, productive places and distinctive places'.

5.4.7. Page 97 of NPF4 sets out that 18 National Developments (ND) have been identified. These are described as: *"significant developments of national importance that will help to deliver the spatial strategy ... National development status does not grant planning permission for the development and all relevant consents are required"*.

5.4.8. It adds that:

"Their designation means that the principle for development does not need to be agreed in later consenting processes, providing more certainty for communities, businesses and investors. ... In addition to the statement of need at Annex B, decision makers for applications for consent for national developments should take into account all relevant policies".

5.4.9. Annex B of NPF4 sets out the various NDs and its related Statements of Need. It explains that NDs are significant developments of national importance that will help to deliver the Spatial Strategy. It states (page 99) that:

"The statements of need set out in this annex are a requirement of the Town and Country Planning (Scotland) Act 1997 and describe the development to be considered as a national development for consent handling purposes".

5.4.10. National Development 3 "Strategic Renewable Electricity Generation and Transmission Infrastructure"

5.4.11. Page 103 of NPF4 describes ND3 and it states:

"This national development supports renewable electricity generation, repowering, and expansion of the electricity grid.

A large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets. Certain types of renewable electricity generation will also be required, which will include energy storage technology and capacity, to provide the vital services, including flexible response, that a zero carbon network will require. Generation is for domestic consumption as well as for export to the UK and beyond, with new capacity helping to decarbonise heat, transport and industrial energy demand. This has the potential to support jobs and business investment, with wider economic benefits.

The electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond. Delivery of this national development will be informed by market, policy and regulatory developments and decisions."

5.4.12. The location for ND3 is set out as being all of Scotland and in terms of need it is described as:

"Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy....."

5.4.13. Reference is made to the designation and classes of development which would qualify as NAD3, and it states in this regard:

"A development contributing to 'Strategic Renewable Electricity Generation and Transmission' in the location described, within one or more of the Classes of Development described below and that is of a scale or type that would otherwise have been classified as 'major' by 'The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009', is designated a national development:

(a) on and off-shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity;

(b) new and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132 kV or more; and

(c) new and/or upgraded Infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations."

- 5.4.14. The Proposed Varied Development, having a capacity which exceeds the 50 MW threshold set for a ND and is classified as 'major' development by The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 means it would have national development status as per these provisions of NPF4. The Proposed Varied Development is of national importance for the delivery of the national Spatial Strategy.
- 5.4.15. The Strategy requires a *"large and rapid increase"* in electricity generation from renewables and the National Spatial Strategy makes it clear (NPF4, page 6) that *"we must make significant progress"* by 2030.

National Planning Policy

- 5.4.16. Part 2 of the NPF contains proposed new 'National Planning Policy'. The 'lead' policies of relevance to the Proposed Varied Development are Policies 1 and 11.
- 5.4.17. **Policy 1 (Tackling the climate and nature crises)** states that: *"when considering all development proposals significant weight will be given to the global climate and nature crisis"*.
- 5.4.18. **Policy 11 (Energy)** has a stated intent: *"To encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisations and storage (CCUS)"*.
- 5.4.19. The desired outcome of this policy is stated as an *"Expansion of renewable, low carbon and zero emissions technologies"*.
- 5.4.20. LDPs are directed to seek to realise their area's full potential for electricity and heat from renewable, low carbon and zero emissions sources by identifying a range of opportunities for energy development.
- 5.4.21. Policy 11, Energy states:

"a) development proposals for all forms of renewable, low carbon and zero emissions technologies will be supported these include:

Wind farms including repowering, extending, expanding and extending the life of existing wind farms.

Enabling works such as grid transmission and distribution infrastructure;

Energy storage such as battery storage and pumped storage hydro;

Small scale renewable energy generation technology;

Solar arrays;

Proposals associated with negative emissions technologies and carbon capture; and

Proposals including co-location of these technologies.

b) development proposals for wind farms in National Park and National Scenic Areas will not be supported.

c) development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

d) development proposals that impact on international or national designations will be assessed in relation to Policy 4.

e) in addition, project design and mitigation will demonstrate how the following impacts are addressed:

i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;

ii. significant landscape and visual impacts, recognising that some impacts are to be expected from some forms of renewable energy. Where impacts are localised and /or appropriate design mitigation has been applied, they will generally be considered to be acceptable.

iii. public access, including impact on long distance walking and cycling routes and scenic routes;

iv. impacts on aviation and defence interests including seismological recording;

v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;

vi. impacts on road traffic and on adjacent trunk roads, including during construction;

vii. impacts on historic environment;

viii. effects on hydrology, the water environment and flood risk;

ix. biodiversity including impacts on birds;

x. impacts on trees, woods and forests;

xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;

xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and

xiii. cumulative impacts.

In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Grid capacity should not constrain renewable energy development, it is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.

f) consents for development proposals may be time limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity."

5.4.22. The other policies of most relevance in NPF4, are as follows:

- Policy 3 – Biodiversity;
- Policy 4 – Natural Places;
- Policy 5 – Soils;
- Policy 6 – Forestry, Woodland and trees;
- Policy 7 – Historic assets and places; and
- Policy 22 - Flood Risk and Water Management.

5.4.23. **Policy 3 (Biodiversity)** seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks with an outcome of ensuring biodiversity is enhance and better connected. Policy 3 states:

"LDPs should protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. They should also promote nature recovery and nature restoration across the development plan area, including by: facilitating the creation of nature networks and strengthening connections between them to support improved ecological connectivity; restoring degraded habitats or creating new habitats; and incorporating measures to increase biodiversity, including populations of priority species.

a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:

i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;

ii. wherever feasible, nature-based solutions have been integrated and made best use of;

iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;

iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and

v. local community benefits of the biodiversity and/or nature networks have been considered.

c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.

d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration”.

5.4.24. Policy 4 (Natural places) seeks to protect, restore and enhance natural assets making best use of nature-based solutions and states:

“LDPs will identify and protect locally, regionally, nationally and internationally important natural assets, on land and along coasts. The spatial strategy should safeguard them and take into account the objectives and level of their protected status in allocating land for development. Spatial strategies should also better connect nature rich areas by establishing and growing nature networks to help protect and restore the biodiversity, ecosystems and natural processes in their area.

a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an "appropriate assessment" of the implications for the conservation objectives.

c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:

i. The objectives of designation and the overall integrity of the areas will not be compromised; or

ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.

d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or

ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.

f) Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application

g) Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal:

i. will support meeting renewable energy targets; or,

ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area. All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation

measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration".

- 5.4.25. Policy 5 (Soils) seeks to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development and states:

"LDPs should protect locally, regionally, nationally and internationally valued soils, including land of lesser quality that is culturally or locally important for primary use.

a) Development proposals will only be supported if they are designed and constructed:

i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and

ii. In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.

b) Development proposals on prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for:

i. Essential infrastructure and there is a specific locational need and no other suitable site;

ii. Small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite;

iii. The development of production and processing facilities associated with the land produce where no other local site is suitable;

iv. The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration; and

In all of the above exceptions, the layout and design of the proposal minimises the amount of protected land that is required.

c) Development proposals on peatland, carbon rich soils and priority peatland habitat will only be supported for:

i. Essential infrastructure and there is a specific locational need and no other suitable site;

ii. The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets;

iii. Small-scale development directly linked to a rural business, farm or croft;

iv. Supporting a fragile community in a rural or island area; or

v. Restoration of peatland habitats.

d) Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:

i. the baseline depth, habitat condition, quality and stability of carbon rich soils;

ii. the likely effects of the development on peatland, including on soil disturbance; and

iii. the likely net effects of the development on climate emissions and loss of carbon. This assessment should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice.

A peat management plan will be required to demonstrate that this approach has been followed, alongside other appropriate plans required for restoring and/ or enhancing the site into a functioning peatland system capable of achieving carbon sequestration.

e) Development proposals for new commercial peat extraction, including extensions to existing sites, will only be supported where:

i. the extracted peat is supporting the Scottish whisky industry;

ii. there is no reasonable substitute;

iii. the area of extraction is the minimum necessary and the proposal retains an in-situ residual depth of part of at least 1 metre across the whole site, including drainage features;

iv. the time period for extraction is the minimum necessary; and

v. there is an agreed comprehensive site restoration plan which will progressively restore, over a reasonable timescale, the area of extraction to a functioning peatland system capable of achieving carbon sequestration”.

5.4.26. **Policy 6 (Forestry, woodland and trees)** seeks to protect and expand forests, woodland and trees and states:

“LDPs should identify and protect existing woodland and the potential for its enhancement or expansion to avoid habitat fragmentation and improve ecological connectivity, helping to support and expand nature networks. The spatial strategy should identify and set out proposals for forestry, woodlands and trees in the area, including their development, protection and enhancement, resilience to climate change, and the expansion of a range of types to provide multiple benefits. This will be supported and informed by an up to date Forestry and Woodland Strategy. Development proposals that enhance, expand and improve woodland and tree cover will be supported;

Development proposals will not be supported where they will result in:

Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;

Adverse impacts on native woodlands, hedgerow and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;

Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;

Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.

Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

Development proposals on site which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design".

5.4.27. **Policy 7 (Historic assets and places)** has a stated intent to protect and enhance historic assets and places. It states:

"a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within the Historic Environment Records.

d) Development proposals in or affecting Conservation Areas will only be supported where the character and appearance of the Conservation Area and its setting is preserved or enhanced.

h) Development proposals affecting Scheduled Monuments will only be supported where:

i. direct impacts on the Scheduled Monument are avoided;

ii. significant adverse impacts on the integrity of the setting of a Scheduled Monument are avoided; or

iii. exceptional circumstances have been demonstrated to justify the impact on a Scheduled Monument and its setting and impacts on the monument or its setting have been minimised.

i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.

l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.

o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures."

5.4.28. Policy 22 Flood risk and water management has a states intent to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. Its states:

"a) Development proposals at risk of flooding or in a flood risk area will only be supported if they are for:

i. essential infrastructure where the location is required for operational reasons;

ii. water compatible uses;

iii. redevelopment of an existing building or site for an equal or less vulnerable use; or.

iv. redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that longterm safety and resilience can be secured in accordance with relevant SEPA advice.

The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk.

In such cases, it will be demonstrated by the applicant that:

- *all risks of flooding are understood and addressed;*
- *there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes;*
- *the development remains safe and operational during floods;*
- *flood resistant and resilient materials and construction methods are used; and*
- *future adaptations can be made to accommodate the effects of climate change.*
- *Additionally, for development proposals meeting criteria part iv), where flood risk is managed at the site rather than avoided these will also require:*
- *the first occupied/utilised floor, and the underside of the development if relevant, to be above the flood risk level and have an additional allowance for freeboard; and*
- *that the proposal does not create an island of development and that safe access/ egress can be achieved.*

b) Small scale extensions and alterations to existing buildings will only be supported where they will not significantly increase flood risk.

c) Development proposals will:

i. not increase the risk of surface water flooding to others, or itself be at risk.

ii. manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing bluegreen infrastructure. All proposals should presume no surface water connection to the combined sewer;

iii. seek to minimise the area of impermeable surface.

d) Development proposals will be supported if they can be connected to the public water mains. If connection is not feasible, the applicant will need to demonstrate that water for drinking water purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.

e) Development proposals which create, expand or enhance opportunities for natural flood risk management, including blue and green infrastructure, will be supported.”

5.5. National Planning Guidance

- 5.5.1. Planning Advice Notes (PANs) set out detailed advice from the Scottish Government in relation to a number of land use planning topics. The Scottish Government withdrew a number of PANs in December 2025. Those remaining and of relevance to the Proposed Varied Development are summarised in **Table 5.1** below.

Table 5.1 – Relevant PANs

Title	Summary Content
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 1/2011 Planning and Noise	The objective of PAN 75 is to integrate development plans and transport strategies to optimise opportunities for sustainable development and create successful transport outcomes.

5.6. The Local Development Plan and Relevant Policies

Introduction

- 5.6.1. The Development Plan for the Dumfries and Galloway Council (DGC) area is as follows:
- the Dumfries and Galloway Local Development Plan 2 (the LDP) (adopted October 2019); and
 - LDP2 'Wind Energy Development: Development Management Considerations' Supplementary Guidance (February 2020) (the SG).
- 5.6.2. The SG contains at Appendix C, the 'Dumfries and Galloway Wind Farm Landscape Capacity Study' (the DGWLCS).

Lead LDP Policies

- 5.6.3. **Policy IN1 'Renewable Energy'** relates to renewable energy proposals in general and is as follows:

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

- landscape and visual impact;*
- cumulative impact;*
- impact on local communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;*

- *the impact on natural and historic environment (including cultural heritage and biodiversity);*
- *the impact on forestry and woodlands;*
- *the impact on tourism, recreational interests and public access.*
- *To enable this assessment sufficient detail should be submitted, to include the following as relevant to the scale and nature of the proposal:*
- *any associated infrastructure requirements including road and grid connections (where subject to planning consent);*
- *environmental and other impacts associated with the construction and operational phases of the development including details of any visual impact, noise and odour issues;*
- *relevant provisions for the restoration of the site;*
- *the scale of contribution to renewable energy generation targets;*
- *effect on greenhouse gas emissions; and*
- *net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.*

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

5.6.4. **Policy IN2 'Wind Energy'** is specific to wind energy developments and is as follows:

"Assessment of all wind farm proposals:

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

Renewable energy benefits:

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

Socio-economic benefits:

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

Landscape and visual impacts:

The extent to which the landscape is capable of accommodating the development without significant detrimental landscape or visual impacts, including effects on wild land; and

That the design and scale of the proposal is appropriate to the scale and character of its setting, respecting the main features of the site and the wider environment and that it addresses fully the potential for mitigation.

Cumulative impact:

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

Impact on local communities and residential interests:

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

Impact on infrastructure:

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

Impact on aviation and defence interests:

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

Other impacts and considerations:

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

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

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

Other LDP Policies

-
- 5.6.5. **Policy OP1 'Development Considerations'** is an overarching policy that sets out general development considerations. It highlights that development will be assessed against various considerations depending on the scale, nature and location of the proposal including general amenity; historic landscape; landscape; biodiversity and geodiversity; transport and travel; sustainability; and the water environment.
- 5.6.6. **Policy OP2 'Design Quality and Placemaking'** is an overarching policy that sets out general considerations in relation to design quality of new development. It highlights that development proposals should achieve high quality design in terms of their contribution to the existing built and natural environment, contributing positively to a sense of place and local distinctiveness.
- 5.6.7. **Policy ED11 'Dark Skies'** relates to the Council's support for the Galloway Forest Dark Sky Park. The Council will assess proposals for development on their merit where they do not adversely affect the objectives of the Dark Sky Park designation.
- 5.6.8. **Policy HE1 'Listed Buildings'** sets out certain considerations that apply to development proposals that impact on the character or appearance of a listed building or its setting.
- 5.6.9. **Policy HE2 'Conservation Areas'** sets out that the Council will support development within or adjacent to a Conservation Area that preserves or enhances the character and appearance of the area.
- 5.6.10. **Policy HE3 'Archaeology'** sets out that the Council will support development and protects significant archaeological and historic assets and protect the wider historic environment from adverse effects.
- 5.6.11. **Policy HE4 'Archaeologically Sensitive Areas'** sets out that the Council will support development that safeguards the character, archaeological interest and setting of Archaeologically Sensitive Areas as designated by the Council.
- 5.6.12. **Policy HE6 'Gardens and Designed Landscapes'** sets out that the Council will support development that protects or enhances the significant elements, specific qualities, character, integrity and setting, including key views to and from, gardens and designed landscapes included in the Inventory of Gardens and Designed Landscapes or the Non-Inventory List. Proposals that would have a detrimental effect on the specific quality, character or integrity of a garden or designed landscape will not be approved unless it is demonstrated that the proposal has benefits of overriding public interest.
- 5.6.13. **Policy NE2 'Regional Scenic Areas'** sets out that development within, or which affects Regional Scenic Areas, may be supported where the Council is satisfied that the landscape character and scenic interest for which the area has been designated would not be significantly adversely affected.
- 5.6.14. **Policy NE4 'Sites of international importance for biodiversity'** sets out that development proposals likely to have a significant effect on an existing or potential Special Protection Area, existing or candidate Special Area of Conservation or Ramsar site, including developments outwith a site, will require an appropriate assessment and will
-

only be permitted where inter alia the development does not adversely affect the integrity of the site.

- 5.6.15. **Policy NE5 'Species of international importance'** sets out that development proposals that would be likely to have an adverse effect on a European Protected Species will not be permitted unless it can be shown inter alia that the development would not be detrimental to the maintenance of the population of the species at a favourable conservation status in its natural range, and that there is no satisfactory alternative and the development is required for preserving public health or safety or for other areas of overriding public interest.
- 5.6.16. **Policy NE6 'Sites of national importance for biodiversity and geodiversity'** sets out that development affecting Sites of Special Scientific Interest and other national nature conservations will only be permitted where inter alia it will not adversely affect the integrity of the area or the qualities for which it has been designated or that any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.
- 5.6.17. **Policy NE7 'Forestry and Woodland'** sets out that proposals should seek to ensure that ancient and semi-natural woodlands and other woodlands with high nature conservation value are protected and enhanced.
- 5.6.18. **Policy NE8 'Trees and Development'** sets out that where it is not possible to retain woodland then appropriate replacement planting will be required. Any such replacement planting scheme would be located where possible within the region and follow guidance contained within the Forestry and Woodland Strategy.
- 5.6.19. **Policy NE11 'Supporting the Water Environment'** sets out that the Council will not permit development which would result in deterioration in the status of a waterbody or which would likely impede the improvements in waterbody status as set out in the Solway Tweed River Basin Management Plan, unless there are exceptional justifying circumstances. The policy further sets out that if culverting of waterbodies should only be carried out where acceptable mitigation measures would be put in place to protect habitats, passage of fauna, and river form and flow.
- 5.6.20. **Policy NE12 'Supporting the Water Environment'** relates to protection of water margins. It sets out that where new development is proposed adjacent to or in the vicinity of waterbodies, the water margins will be protected unless there are compelling reasons to justify why this should not be done.
- 5.6.21. **Policy NE15 'Protection and Restoration of Peat Deposits as Carbon Sinks'** relates to the protection and restoration of Peat Deposits as Carbon Sinks. It sets out that the Council will safeguard and protect peat deposits. Where renewable energy generating development is proposed the balance of advantage in terms of climate change mitigation must be with the proposed development.
- 5.6.22. **Policy T1 'Transport Infrastructure'** sets out that development proposals will be appraised to determine their effects on the performance of the strategic and regional highway network.

Supplementary Guidance

- 5.6.23. The LDP2 'Wind Energy Development: Development Management Considerations' Supplementary Guidance (February 2020) (the "SG") provides further detail in support of the development management considerations in Policy IN2 'Wind Energy'. It sets out a statement on the main factors that are to be taken into account in reaching planning decisions and details the criteria contained in the policy.
- 5.6.24. As noted, the SG contains an Appendix C, the 'Dumfries and Galloway Wind Farm Landscape Capacity Study' (the DGWLCS). The DGWLCS is currently under review with an updated version expected to be published by in 2026.

5.7. Conclusions

- 5.7.1. This Chapter has set out the legislative background, a summary of the national energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the Proposed Varied 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 application for consent.
- 5.7.2. As noted, the policy appraisal for the Proposed Varied Development is contained in a separate stand-alone Planning Statement.

References

The Climate Change (Emissions reduction targets) (Scotland) Act 2019. Available at <https://www.legislation.gov.uk/asp/2019/15/enacted>

Scottish Government (2023), The Draft Energy Strategy and Just Transition Plan. Available at Draft Energy Strategy and Just Transition Plan - gov.scot (www.gov.scot)

Scottish Government (2022), The Onshore Wind Policy Statement. Available at Onshore wind: policy statement 2022 - gov.scot (www.gov.scot)

Scottish Government (2022), National Planning Framework 4. Available at National Planning Framework 4: revised draft - gov.scot (www.gov.scot)

Dumfries & Galloway Council Local Development Plan and Supplementary Guidance (2019) Available at: https://www.dumfriesandgalloway.gov.uk/planning-building/planning/planning-policy/local-development-plan/local-development-plan-2-ldp2#lgd-guides_title#lgd-guides_title

Abbreviations

Abbreviations	Definition
DGWLCS	Dumfries and Galloway Wind Farm Landscape Capacity Study
EIA	Environmental Impact Assessment
LDP	Local Development Plan
LDP2	Dumfries and Galloway Local Development Plan 2
MW	Megawatt
ND	National Development
NPF	National Planning Framework
NPF4	National Planning Framework 4
OWPS	Onshore Wind Policy Statement
PAN	Planning Advice Note
SG	LDP2 'Wind Energy Development: Development Management Considerations' Supplementary Guidance
SNH	Scottish Natural Heritage