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Chapter 2

Policy Context

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Glossary

Term	Definition
Environmental Impact Assessment	Environmental Impact Assessment (EIA) is a means of drawing together by the developer, in a systematic way, a description of the development and information relating to of the likely significant environmental effects arising from a proposed development
Environmental Impact Assessment Report	A document reporting the findings of the EIA and produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 Regulation 5
The Proposed Development	The proposed Scawd Law Wind Farm development
The Proposed Development Area	The development area within the red line site boundary (application area) as shown in Volume 3a Figure 1.2: Site Layout.

List of Abbreviations

List and describe your abbreviations here.

Abbreviation	Description
EIAR	Environmental Impact Assessment Report
EPS	European Protected Species
LDP	Local Development Plan
NPF	National Planning Framework
NS	NatureScot
PAN	Planning Advice Note
SDP	Strategic Development Plan
SESplan	The South East Scotland Strategic Development Planning Authority
SG	Supplementary Guidance
SPP	Scottish Planning Policy
SUDS	Sustainable Urban Drainage
UK	United Kingdom

2.1 INTRODUCTION

2.1.1 This chapter of the EIAR describes the legislative and policy background relevant to the Proposed Development. It refers to national 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.

2.2 THE LEGISLATIVE FRAMEWORK

The Electricity Act 1989

2.2.1 In the case of 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.

2.2.2 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."

2.2.3 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;* "

2.2.4 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.

The Town & Country Planning (Scotland) Act 1997

2.2.5 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.

2.2.6 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*".

2.2.7 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*".

2.2.8 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. The 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)[1].

2.2.9 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.

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

2.3 RENEWABLE ENERGY POLICY: SUMMARY

2.3.1 In recent years United Kingdom (UK) and Scottish Government policies have focussed increasingly on concerns about climate change. Government has developed targets, policies and actions to achieve targets to deal with the climate crisis and generate more renewable energy and electricity.

2.3.2 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 an important component to achieve these various goals.

2.3.3 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 SPP (November 2015);
- Scottish Energy Strategy (December 2017);
- 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 Scottish Government's 'Programme for Government' (2021);
- The draft Onshore Wind Policy Statement Refresh Consultative Draft (2021); and
- 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.

2.3.4 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 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. It 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."

2.3.5 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.

2.3.6 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.

2.3.7 The Proposed Development would 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 policy context is provided in the Planning Statement.

2.4 NATIONAL PLANNING POLICY

The National Planning Framework

2.4.1 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.

2.4.2 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.

2.4.3 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.

2.4.4 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 on the 26th November 2020 and a consultation draft NPF4 was issued for consultation in November 2021 (this is referenced below).

Scottish Planning Policy

2.4.5 Scottish Planning Policy (2014) (SPP) is Scottish Government policy on how nationally important land use planning matters should be addressed.

2.4.6 SPP contains a number of principal policies, one of which expresses "*a presumption in favour of 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*".

2.4.7 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.

2.4.8 To support in achieving the outcome of making Scotland a low carbon place, SPP states that the planning system should support the change to a low carbon economy, including deriving the equivalent of 100% of electricity demand from renewable sources by 2020. The policy approach is that Planning Authorities should support the development of electricity generation from a diverse range of renewable sources. SPP advises on the issues that should be taken into account when specific proposals are being assessed.

2.4.9 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).

2.4.10 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.

2.4.11 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.

2.4.12 As noted, SPP is under review and the new NPF4 will become the single national planning policy document and it will have Development Plan status when it comes into force.

Revised Draft National Planning Framework 4

2.4.13 NPF4 has been subject to consultation and committee scrutiny over the last year and was first laid before the Scottish Parliament in November 2021. On 8th November 2022 the revised NFP4 was laid before Parliament for approval. It is accompanied by an Explanatory Report which explains how the Scottish Government has considered responses to the initial draft NPF4 received during the preceding period of Parliamentary scrutiny and consultation, in line with its statutory duty. There is no statutory requirement to consult further, and the Scottish Government has confirmed that no further consultation will take place.

2.4.14 NPF4 will form part of the statutory development plan on adoption and publication. Until then, the Revised NPF4 is a material consideration in development management decision making.

2.4.15 Section 13 of the 2019 Act amends Section 24 of the 1997 Act regarding the meaning of 'development plan', such that for the purposes of the 1997 Act, the development plan for an area is taken as consisting of the provisions of:

- The National Planning Framework;
- Any Strategic Development Plan; and
- Any Local Development Plan.

2.4.16 NPF4 introduces centralised development management policies which are to be applied Scotland wide, and also provides guidance to Planning Authorities with regard to the content and preparation of LDPs.

2.4.17 Annex A adds that NPF4 is required by law to contribute to six outcomes. These relate to meeting housing needs, health and wellbeing, population of rural areas, addressing equality and also "*meeting any targets relating to the reduction of emissions of greenhouses gases, and, securing positive effects for biodiversity*".

2.4.18 The spatial strategy is to support the delivery of:

- 'Sustainable Places': "*where we reduce emissions, restore and better connect biodiversity*";
- 'Liveable Places': "*where we can all live better, healthier lives*"; and
- 'Productive places': "*where we have a greener, fairer and more inclusive wellbeing economy*".

2.4.19 Page 6 of NPF4 addresses the delivery of sustainable places. Reference is made to the consequences of Scotland's changing climate, and it states, *inter alia*:

"*Scotland's Climate Change Plan, backed by legislation, has set our approach to achieving net zero emissions by 2045, and we must make significant progress towards this by 2030…..Scotland's Energy Strategy will set a new agenda for the energy sector in anticipation of continuing innovation and investment*."

2.4.20 Part 2 of NPF4 (page 36) addresses national planning policy by topic under the three themes of sustainable, liveable and productive places.

2.4.21 NPF4 continues the approach set out in NPF3 of identifying national developments. Proposed National Development 3 is entitled "Strategic Renewable Electricity Generation and Transmission Infrastructure"

2.4.22 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."

2.4.23 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 and supports improved network resilience in rural and island areas*."

2.4.24 Reference is made to the designation and classes of development which would qualify as ND3, 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 132kv 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."

2.4.25 The Proposed Development would therefore have national development status as per these provisions of NPF4.

2.4.26 In terms of development management and the application of the national levels policies, NPF4 states:

"The policy sections are for use in the determination of planning applications. The policies should be read as a whole. Planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker to determine what weight to attach to policies on a case by case basis. Where a policy states that development will be supported, it is in principle, and it is for the decision maker to take into account all other relevant policies".

2.4.27 In terms of 'sustainable places' relevant policies include the following:

- Policy 1: Tackling the Climate and Nature Crisis;
- Policy 3: Biodiversity;
- Policy 4: Natural Places;
- Policy 5: Soils;
- Policy 6: Forestry, Woodland and Trees;
- Policy 7: Historic Assets and Places; and
- Policy 11: Energy.

2.4.28 For the consideration of onshore wind energy development, Policy 11 is the lead policy.

2.4.29 The revised NPF4 contains various policies of relevance and is expected to come into force in December 2022 or early 2023. It will therefore be a key policy consideration for the determination of the Proposed Development as part of the statutory Development plan.

2.5 NATIONAL PLANNING ADVICE

2.5.1 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 4.1 below.

Table 2.1: Relevant PANs and Specific 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 (SNH) (now NatrueScot) 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.
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)	This Specific Advice Sheet provides an overview of the use of the carbon calculator in estimating the carbon savings resulting from wind farm developments. 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.
PAN 51 Planning, Environmental Protection and Regulation (Revised 2006)	Details the role of the planning system in relation to the environmental protection regimes.
Online Planning Advice on Flood Risk (2015)	Provides advice on the role of the planning system and the assessment and management of flood risk.
Online Planning Guidance, COVID 19 Emergency and Pre-Application Consultation and Requirements for a Public Event (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 on alternative online consultation and expected practice.

2.6 THE DEVELOPMENT PLAN AND RELEVANT POLICIES

The Development Plan

2.6.1 The statutory Development Plan covering the Site comprises the following:

- The Strategic Development Planning Authority for Edinburgh and South East Scotland Strategic Development Plan (SDP) (adopted 27 June 2013) (SESplan); and
- The Scottish Borders Local Development Plan (adopted 12 May 2016) ("the LDP").

2.6.2 The policies from SESplan are of limited relevance for the consideration of the Proposed Development and include:

- Policy 10 'Sustainable Energy Technologies'; and
- Policy 1B 'The Spatial Strategy: Development Principles'.

2.6.3 The development Plan is over 5 years old. The replacement SDP known as "SDP2" has been through the Examination process. However, following Examination the Scottish Ministers rejected the proposed SDP2 and its provisions are of no relevance.

2.6.4 The LDP is under review and a Proposed LDP was presented to the Council in September 2020. The Proposed Plan was the subject of public consultation which ended on 25 January 2021. The Plan is expected to progress to Examination (to address outstanding objections) in Summer 2022 and is not likely to be adopted until late 2023. No or very limited weight can be placed on its draft provisions at this time.

Development Plan Policies

2.6.5 The policies from the LDP relevant to the consideration of the Proposed Development and for the purposes of a comprehensive policy assessment are set out below:

- Policy PM1 Sustainability;
- Policy PMD2 Quality Standards;
- Policy ED9 Renewable Energy Development;
- Policy ED10 Protection of Prime Quality Agricultural land & Carbon Rich Soil
- Policy HD3 Protection of Residential Amenity;
- Policy EP1 International Nature Conservation Sites and Protected Species;
- Policy EP2 National Nature Conservation and Protected Species;
- Policy EP3 Local Biodiversity;
- Policy EP4 National Scenic Areas;
- Policy EP5 Special Landscape Areas;
- Policy EP7 Listed Buildings;
- Policy EP8 Archaeology;
- Policy EP9 Conservation Areas;
- Policy EP10 Gardens and Designed Landscapes;
- Policy EP13 Trees, Woodlands & Hedgerows;
- Policy EP15 Development Affecting the Water Environment;
- Policy IS5 Protection of Access Routes.

2.6.6 However, the key policy within the LDP against which the Proposed Development should be assessed is policy ED9.

2.6.7 Relevant Supplementary Guidance (SG" with statutory status comprises that entitled 'Renewable Energy' (July 2018). This SG sets out a Spatial Framework as per SPP and provides further guidance on criteria referenced within LDP policy ED9 but does not introduce any new policy 'tests' as such. The SG also makes reference to the Council's Landscape Capacity Study which was updated in 2016.

2.6.8 Policy ED9 is the 'lead' policy with regard to dealing with onshore wind developments.

2.6.9 The supporting text set out at page 55 of the LDP (paragraph 1.1 *et seq*) sets the context of the policy and highlights that increasing the proportion of power generated from renewable energy sources plays a vital role in reducing greenhouse gas emissions. It adds that the generation of renewable energy also supports the transformation of the change to creating a low carbon economy and, furthermore, helps to increase the sale of economic growth.

2.6.10 The LDP adds that the aim of the policy ED9 is to support renewable energy, to guide development to appropriate locations and to advise on the factors to be taken into account in considering individual proposals. Reference is also made to the wider national level policy context in terms of renewable energy and electricity targets.

Policy ED9: Renewable Energy Development

2.6.11 Policy ED9 is as follows:

"The Council will support proposals for both large scale and community scale renewable energy development including commercial wind farms, single or limited scale wind turbines, biomass, hydropower, biofuel technology, and solar power where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations.

The assessment of applications for renewable energy developments will be based on the principles set out in Scottish Planning Policy (2014), in particular, for onshore wind developments, the terms of Table 1: Spatial Frameworks. Renewable energy developments, including wind energy proposals, will be approved provided that there are no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated. If there are judged to be relevant significant adverse impacts or effects that cannot be satisfactorily mitigated, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits of the proposed outweigh the potential damage arising from it.

Supplementary Guidance

The Council will produce statutory Supplementary Guidance on wind energy and renewable energy. This shall be submitted to Ministers within 12 months of adoption of the plan. The guidance will accord with Scottish Planning Policy (2014), and will set out the detailed policy considerations against which all proposals for wind energy and other forms of renewable energy will be assessed, based on those considerations set out at paragraph 169. The guidance on wind energy will contain the onshore spatial framework as required by Scottish Planning Policy (2014), identifying areas where wind farms will not be acceptable, areas of significant protection, and areas with potential for wind farm development, and indicating the minimum scale of onshore wind development that the framework applies to.

Consideration of Wind Energy Proposals

The assessment of wind energy proposals will include the following considerations:

- *The onshore spatial framework which identifies those areas that are likely to be most appropriate for onshore wind turbines;*
- *Landscape and visual impact to include effects on wild land, and taking into account the report on Landscape Capacity and Cumulative Impact (July 2013) as an initial reference point, the landscape and visual impact assessment for a proposal (which should demonstrate that it can be satisfactorily accommodated in the*

landscape, and should properly address the issues raised in the 2013 report), and other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage;

- *All cumulative impacts, including cumulative landscape and visual impact, recognising that in some areas the cumulative impact of existing and consented development may limit the capacity for further development;*
- *Impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker);*
- *Impacts on carbon rich soils (using the carbon calculator), public access, the historic tourism and recreation, aviation and defence interests and seismological recording, telecommunications and broadcasting installations, and adjacent trunk roads and road traffic;*
- *Effects on the natural heritage (including birds), and hydrology, the water environment and flood risk;*
- *Opportunities for energy storage;*
- *Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*
- *The scale of contribution to renewable energy generation targets, and the effect on greenhouse emissions;*
- *The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration; and*
- *The need for a robust planning obligation to ensure that operators achieve site restoration."*

Other LDP Policies

Policy PMD1 – Sustainability

"*In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:*

a) The long term sustainable use and management of land;

b) The preservation of air and water quality;

c) The protection of natural resources, landscapes, habitats, and species;

d) The protection of built and cultural resources;

e) The efficient use of energy and resources, particularly non-renewable resources;

f) The minimisation of waste, including waste water and encouragement to its sustainable management;

g) The encouragement of walking, cycling, and public transport in preference to the private car;

h) The minimisation of light pollution;

i) The protection of public health and safety;

j) The support to community services and facilities;

k) The provision of new jobs and support to the local economy; and

l) The involvement of the local community in the design, management and improvement of their environment."

Policy PMD2 – Quality Standards

"*All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:*

Sustainability

a) In terms of layout, orientation and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction has been met, with at least half of this target met through the use of low or zero carbon technology;

b) It provides digital connectivity and associated infrastructure;

c) It provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance;

d) It encourages minimal water usage for new developments;

e) It provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities;

f) It incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance; and

g) It considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking and Design

h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and /or innovative design,

i) It is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,

j) It is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where extension or alteration, the existing building,

k) It is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,

l) It can be satisfactorily accommodated within the site,

m) It provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,

n) Its incorporate, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,

p) It incorporates, where required, access for those with mobility difficulties,

q) It ensures there is no adverse impact on road safety, including but not limited to the site access,

r) It provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,

s) It incorporates adequate access and turning space for vehicles including those used for waste collection purposes. Green Space, Open Space & Biodiversity

t) It provides meaningful open space that wherever possible, links to existing open spaces and it is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,

u) It retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements. 5.68

Developers are required to provide design and access statements, design briefs and landscape plan as appropriate."

Policy ED10 - Protection of Prime Quality Agricultural Land and Carbon Rich Soils

"*Development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless: a) the site is otherwise allocated within this plan b) the development meets an established need and no other site is available c) the development is small scale and directly related to a rural business.*

Proposals for renewable energy development, including proposals for wind energy development, will be permitted if the accord with the objectives and requirements of policy ED9 on renewable energy development."

Policy EP1 - International Nature Conservation Sites and Protected Species

"Development proposals which will have a likely significant effect on a designated or proposed Natura sites, which includes all Ramsar sites are only permissible where:

a) An appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or

b) There are no alternative solutions, and

c) There are imperative reasons of overriding public interest including those of social or economic nature

d) Where a development proposal is sited where there is likely presence of an EPS [European Protected Species], the planning authority must be satisfied that:

e) There is no satisfactory alternative, and

f) The development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment, and

g) The development is not detrimental to the maintenance of the population of an EPS at a favourable conservation status in its natural range."

Policy EP2 - National Nature Conservation and Protected Species

"*Development proposals which are likely to have a significant adverse effect, either directly or indirectly, on a Site of Special Scientific Interest or habitat directly supporting a nationally important species will not be permitted unless:*

a) The development will not adversely affect the integrity of the site, and the development offers substantial benefits of national importance, including those of a social or economic nature, that clearly outweigh the national nature conservation of the site.

b) The developer will be required to detail mitigation, either on or off site, of any damage that may be caused by development permissible under the exception criteria."

Policy EP3 – Local Biodiversity

"*Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation. 5.28 Any development that could impact on local biodiversity through impacts on habitats and species should:*

a) Aim to avoid fragmentation or isolation of habitats; and

b) Be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and

c) Compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and

d) Aim to enhance the biodiversity value of the site, through use of an ecosystem approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance."

Policy EP4 - National Scenic Areas

"*Development that may affect National Scenic Areas will only be permitted where:*

a) The objectives of designation and the overall landscape value of the site and its surrounds will not be compromised; or

b) Any significant adverse effects on the qualities for which the site or its surrounds have been designated are clearly outweighed by social or economic benefits or national importance."

Policy EP5 - Special Landscape Areas

"*In assessing proposals for development that may affect Special Landscape Areas, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development, including the visual impact. Proposals that have a significant adverse impact will only be permitted where the landscape impact is clearly outweighed by social or economic benefits of national or local importance*."

Policy EP7 - Listed Buildings

"*The Council will support development proposals that conserve, protect, and enhance the character, integrity and setting of Listed Buildings.*

Internal or external alterations and extensions to Listed Buildings, or new developments with their curtilage, must meet the following criteria:

a) Be of the highest quality;

b) Respect the original structure in terms of setting, scale, design and materials, whilst not inhibiting contemporary and/or innovative design;

c) Maintain, and should preferably enhance, the special architectural or historic quality of the building; and

d) Demonstrate an understanding of the building's significance.

All applications for Listed Building Consent or applications affecting the setting of Listed Buildings will be required to be supported by Design Statements.

New development that adversely affects the setting of a Listed Building will not be permitted."

Policy EP8 - Archaeology

A. National Archaeological Sites

"*Development proposals which would destroy or adversely affect the appearance, fabric or setting of the Scheduled Monuments or other nationally important sites will not be permitted unless:*

a) The development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site; and

b) There are no reasonable alternative means of meeting the development need.

B. Battlefields

C. Regional or Local Archaeological Assets

Development proposals which will adversely affect an archaeological asset of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposals will clearly outweigh the heritage value of the asset.

In all the above cases, where development proposals impact on a Scheduled Monument, other nationally important sites, or any other archaeological or historical asset, developers may be required to carry out detailed investigations.

Any proposal that will adversely affect a historic environment asset or its appropriate setting must include a mitigation strategy acceptable to the Council."

Policy EP9 - Conservation Areas

"The Council will support development proposals within or adjacent to a Conservation Area which are located and designed to preserve or enhance the special architectural or historic character and appearance of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes."

Policy EP13 – Trees, Woodlands & Hedgerows

"*The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.*

Any development that may impact on the woodland resource should:

a) Aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and

b) Adhere to any planning agreement sought to enhance the woodland resource."

Policy EP15 - Development Affecting the Water Environment

"*Development proposals that seek to bring improvement to the quality of the water environment will be supported. Where a proposal would result in a significant adverse effect on the water environment through impact on its natural or physical characteristics, or its use for recreation or existing river engineering works, it will be refused. Decision making will be guided by an assessment of:*

a) Pollution of surface or underground water, including water supply catchment areas, as a result of the nature of any surface or waste water discharge or leachate, including from the disturbance of contaminated land;

b) Flood risk within the site or the wider river catchment;

c) Proposals for river engineering works that may be required for fisheries management, flood defence or erosion control; and

d) Compliance with current best practice on Sustainable Urban Drainage (SUDS) including avoidance of flooding, pollution, extensive canalisation and culverting of watercourses."

Policy HD3 - Protection of Residential Amenity

"*Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:*

a) The principle of the development, including where relevant, any open space that would be lost; and

b) The details of the development itself particularly in terms of:

I. The scale, form and type of development in terms of its fit within a residential area;

II. The impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' developmentt;

III. The generation of traffic or noise; and IV. The level of visual impact."

Policy IS4 - Transport Development and Infrastructure

"*The Council will support proposals for transport infrastructure that:*

a) Promote sustainable travel

b) Facilitate the development of allocated sites in ways which promote sustainable travel c) Enable the sustainable movement of goods, particularly by rail

d) Have no unacceptable adverse impact on the natural and built environment

e) Have no unacceptable adverse impact on the occupiers of adjacent land by virtue of noise, smell and noise pollution

Proposals that generate significant travel demand will be required to provide the following criteria:

a) Transport Assessments and Travel Plans."

Policy IS5 - Protection of Access Routes

"*Development that would have an adverse impact upon an access route available to the public will not be permitted unless a suitable diversion or appropriate alternative route, as agreed by the Council, can be provided by the developer."*

2.7 ONSHORE WIND SUPPLEMENTARY GUIDANCE

2.7.1 The 'Renewable Energy' SG gives further advice and guidance relating to policy ED9 - Renewable Energy Developments as contained within the LDP. It covers a wide range of renewable energy types and references SPP and Scottish Government advice setting out the need to accommodate renewable energy proposals where appropriate, whilst also taking cognisance of economic and other benefits a proposal may offer. It sets out a Spatial Framework for wind energy. It includes reference to the 2016 Ironside Farrar Landscape Capacity and Cumulative Impact Study as Appendix C.

2.7.2 Appendix C to the SG – The Scottish Borders Council Wind Energy Consultancy – Update of Wind Energy Landscape Capacity and Cumulative Impact Study

2.7.3 The Scottish Borders Wind Energy Landscape Capacity and Cumulative Impact Study aims to identify landscape and visual sensitivities relative to the consideration and determination of proposals for wind farm developments across the region.

2.7.4 The SG sets out that if turbines are proposed which exceed the turbine heights identified within the Ironside Farrar Study 2016, the applicant will be required to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated.

2.8 CONCLUSIONS

2.8.1 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 Revised Consented Development. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIAR in order to ensure that it provides the appropriate information for the consideration of the application.

2.8.2 As noted, the policy appraisal for the Proposed Development is contained in a separate Planning Statement.