

Chapter 4: Policy Context

Introduction

- 4.1 The Applicant received a planning permission for Lochluichart Wind Farm Extension II, a 5-turbine scheme together with associated infrastructure, on 1st July 2020 from THC (the 'Consented Development'). This new application is to increase the tip height of the Consented Development turbines to 149.9m. All the turbines and associated infrastructure will remain in the same locations for this new application (hereafter known as the 'Proposed Development') as they do for the Consented Development.
- 4.2 This chapter outlines policies and guidance relevant to the Proposed Development.
- 4.3 Whilst not all the following policy and guidance will be relevant to an assessment of an increase in tip height, a comprehensive summary has been provided for completeness and ease of reference. Where necessary additional policy commentary is also provided within the baseline sections of the specialist topic EIA Report chapters. A full assessment of development plan policy compliance and the overall acceptability of the development is provided within a separate planning statement which accompanies the application.
- 4.4 This chapter also provides information on the other material policy considerations, including national energy policy and planning advice and guidance, relevant to a wind energy scheme.
- 4.5 In this regard it is relevant that there have been various recent updates to energy policy with the following most relevant: UK Energy White Paper (December 2020); Climate Change Committee 6th Carbon Budget (December 2020); and Scottish Government Update to the Climate Change Plan (December 2020). There have also been various Climate Change Committee reports to both Parliaments in 2020 about progress made towards reducing emissions. In combination these confirm the urgent need to address climate change and achieve net-zero emissions. To reflect this rapidly changing context the NPF4 Position Statement was also published, giving an indication of the likely direction of policy travel.
- 4.6 Section 25 of the Town & Country Planning (Scotland) Act 1997 (as amended) requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan Policies

- 4.7 The Development Plan currently comprises the Highland-wide Local Development Plan 2012 (HwLDP). The HwLDP is currently under review and is at Main Issues Report Stage.
- 4.8 Whilst the Site is outwith the West Highlands and Islands Local Development Plan 2019 (WHILDP) area, this is partially relevant through its confirmation of the boundaries of relevant landscape designations including the Ben Wyvis SLA, the Fannichs, Beinn Dearg and Glencalvie SLA, and the Strathconon, Monar and Mullardoch SLA, or part thereof where these SLAs fall within the WHILDP area.

Highland-wide Local Development Plan 2012

4.9 The key HwLDP policy relevant to wind energy developments is Policy 67. This policy states as follows:

Policy 67 Renewable Energy Developments

Renewable energy development proposals should be well related to the source of the primary renewable resources that are needed for their operation. The Council will also consider:

- *the contribution of the proposed development towards meeting renewable energy generation targets; and*
- *any positive or negative effects it is likely to have on the local and national economy;*

and will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other material considerations, including proposals able to demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities.

Subject to balancing with these considerations and taking into account any mitigation measures to be included, the Council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments (see Glossary), having regard in particular to any significant effects on the following:

- *natural, built and cultural heritage features;*
- *species and habitats;*
- *visual impact and impact on the landscape character of the surrounding area (the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations);*
- *amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary);*
- *the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;*
- *ground water, surface water (including water supply), aquatic ecosystems and fisheries;*
- *the safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;*
- *other communications installations or the quality of radio or TV reception;*

- *the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;*
- *tourism and recreation interests;*
- *land and water-based traffic and transport interests.*

Proposals for the extension of existing renewable energy facilities will be assessed against the same criteria and material considerations as apply to proposals for new facilities.

In all cases, if consent is granted, the Council will approve appropriate conditions (along with a legal agreement/obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, where necessary), relating to the removal of the development and associated equipment and to the restoration of the site, whenever the consent expires, other than in circumstances where fresh consent has been secured to extend the life of the project, or the project ceases to operate for a specific period.

The Onshore Wind Energy Supplementary Guidance will replace parts of the Highland Renewable Energy Strategy. It will identify: areas to be afforded protection from windfarms; other areas with constraints; and broad areas of search for windfarms. It will set out criteria for the consideration of proposals. It will ensure that developers are aware of the key constraints to such development and encourage them to take those constraints into account at the outset of the preparation of proposals. It will seek to steer proposals, especially those for larger windfarms, away from the most constrained areas and ideally towards the least constrained areas and areas of particular opportunity. It will also set out criteria which will apply to the consideration of proposals irrespective of size and where they are located, enabling proposals to be considered on their merits. It will seek submission as part of the planning application of key information required for the assessment of proposals and provide certainty for all concerned about how applications will be considered by the Council.

- 4.10 It should be noted that following the adoption of the HwLDP in 2012 the Onshore Wind Energy Supplementary Guidance was adopted in November 2016, with an addendum in December 2017. This replaced the Highland Renewable Energy Strategy and Planning Guidelines referred to in Policy 67.
- 4.11 Whilst it is felt that the application can be assessed under the HwLDP by reference only to policy 67 and the OWESG, a summary of other policy is provided below for reasons of completeness. It is relevant that the objectives of these policies are already reflected in policy 67 and the OWESG.

Policy 55 Peat and Soils

Development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal.

Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

New areas of commercial peat extraction will not be supported unless it can be shown that it is an area of degraded peatland which is clearly demonstrated to have been significantly damaged by human activity and has low conservation value and as a result restoration is not possible.

Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland.

Policy 57 Natural, Built and Cultural Heritage

All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, in the context of the policy framework detailed in Appendix 2. The following criteria will also apply:

*1. For features of **local/regional importance** we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.*

*2. For features of **national importance** we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.*

*3. For features of **international importance** developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers).*

Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.

Note: Whilst Appendix 2 groups features under the headings international, national and local/regional importance, this does not suggest that the relevant

policy framework will be any less rigorously applied. This policy should also be read in conjunction with the Proposal Map.

The Council intends to adopt the Supplementary Guidance on Wild Areas in due course. The main principles of this guidance will be:

- to provide mapping of wild areas;*
- to give advice on how best to accommodate change within wild areas whilst safeguarding their qualities;*
- to give advice on what an unacceptable impact is; and*
- to give guidance on how wild areas could be adversely affected by development close to but not within the wild area itself.*

In due course the Council also intends to adopt the Supplementary Guidance on the Highland Historic Environment Strategy. The main principles of this guidance will ensure that:

- Future developments take account of the historic environment and that they are of a design and quality to enhance the historic environment bringing both economic and social benefits;*
- It sets a proactive, consistent approach to the protection of the historic environment.*

- 4.12 Paragraph 215 of SPP supersedes Appendix 2 of the HwLDP given that the LDP is out of date. This paragraph states that *'In areas of wild land, development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.'* The Proposed Development site is not within an area of Wild Land.

Policy 58 Protected Species

Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, we will require a survey to be carried out to establish any such presence and if necessary a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species (see Glossary) will only be permitted where:

- There is no satisfactory alternative;*
- The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and*
- The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species (see Glossary) will only be permitted where:

- *There is no other satisfactory solution; and*
- *The development is required in the interests of public health or public safety.*

This will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:

- *Species listed in Annex 1 of the EC Birds Directive;*
- *Regularly occurring migratory species listed in Annex II of the Birds Directive;*
- *Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended;*
- *Birds of conservation concern.*

Development that is likely to have an adverse effect, individually and/or cumulatively (see glossary), on other protected animals and plants (see Glossary) will only be permitted where the development is required for preserving public health or public safety.

Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004.

Policy 61 Landscape

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. This will include consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue. The Council would wish to encourage those undertaking development to include measures to enhance the landscape characteristics of the area. This will apply particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place. In the assessment of new developments, the Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance.

Note: The principles and justification underpinning the Council's approach to sustainable developments are contained in the supplementary guidance: 'Sustainable Design'. The key principles underlying this guidance are set out in Policy 28: Sustainable Design.

4.13 The provisions of Policy 61 should fit with the provisions of Policy 67 which provides more specific context for wind energy developments.

4.14 Other policy which is of very limited relevance includes the following:

Policy 63 – Water Environment

The Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (2000/60/EC), aimed at the protection and improvement of Scotland’s water environment. In assessing proposals, the Council will take into account the River Basin Management Plan for the Scotland River Basin District and associated Area Management Plans and supporting information on opportunities for improvements and constraints. (see Figure 8).

Policy 66 – Surface Water Drainage

All proposed development must be drained by Sustainable Drainage Systems (SuDS) designed in accordance with The SuDS Manual (CIRIA C697) and, where appropriate, the Sewers for Scotland Manual 2nd Edition. Planning applications should be submitted with information in accordance with Planning Advice Note 69: Planning and Building Standards Advice on Flooding paragraphs 23 and 24. Each drainage scheme design must be accompanied by particulars of proposals for ensuring long-term maintenance of the scheme.

Policy 72 Pollution

Proposals that may result in significant pollution such as noise (including aircraft noise), air, water and light will only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated.

Where the Council applies conditions to any permission to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Major Developments and developments that are subject of Environmental Impact Assessment will be expected to follow a robust project environmental management process, following the approach set out in the Council’s Guidance Note ‘Construction Environmental Management Process for Large Scale Projects’ or a similar approach.

Supplementary Guidance

Onshore Wind Energy Supplementary Guidance (OWESG), November 2016 (with addendum, December 2017).

- 4.15 The adopted OWESG documents combine the 2016 guidance with a more recent ‘Part 2b’ addendum adopted in December 2017 (a landscape sensitivity appraisal for the ‘Black Isle, Surrounding Hills and Moray Firth Coast area’ and for the ‘Caithness area’). The Proposed Development site is not located within one of the areas covered in the December 2017 addendum, and thus the contents of that part of the OWESG are not relevant.
- 4.16 The guidance sets out how Highland Council will manage onshore wind energy development proposals, and where relevant it ‘sets out key features, aspects or issues related to the topics contained in the Guidance.’ The OWESG applies to

individual turbines with a height of 50m to blade tip and above, and to more than one turbine with a height of 30m to blade tip or above.

4.17 In accordance with Scottish Planning Policy (see the following section), the SG provides a spatial framework for wind energy developments comprising three groups. These are:

- Group 1: Areas where windfarms will not be acceptable;
- Group 2: Areas of significant protection;
- Group 3: Areas with potential for wind farm development.

4.18 The mapping provided within the OWESG confirms the proposed development site comprises a combination of Group 2 and Group 3 land. The more sensitive Group 2 land is identified as such primarily due to the peat resource in this location. An assessment of the potential effects that the proposed development would have on peat is included in Chapter 13, including the technical appendices as appropriate. The site can therefore be categorised as lying within a Group 2 area as per Table 4.1 of SPP set (see SPP section of this chapter below), where '*wind farms may be appropriate in some circumstances*'.

4.19 In terms of wind farm design and landscape and visual effects, the OWESG sets out ten criteria against which proposals will be assessed. The OWESG notes at paragraph 4.17 that '*The criteria do not set absolute requirements but seek to ensure that developers are aware of key constraints to development.*' The criteria are as follows:

- Relationship between key settlements/key locations and wider landscape respected.
- Key Gateway locations and routes are respected.
- Valued natural and cultural landmarks are respected.
- The amenity of key recreational routes and ways is respected.
- The amenity of transport routes is respected.
- The existing pattern of Wind Energy Development is respected.
- The need for separation between developments and/or clusters is respected.
- The perception of landscape scale and distance is respected.
- Landscape setting of nearby wind energy developments is respected.
- Distinctiveness of Landscape character is respected.

Other Material Considerations

Scottish Planning Policy and Advice

4.20 National planning policy and advice of relevance to the determination of the Proposed Development currently comprises, primarily, the National Planning Framework for Scotland 3 (2014), Scottish Planning Policy (2014) and Scottish Government Website Policy Subject Guidance – Onshore Wind Turbines (last

updated 28th May 2014). All of these are material considerations in the determination of the application.

The National Planning Framework for Scotland 3 (NPF3)

4.21 The National Planning Framework 3 for Scotland (NPF3), published in June 2014, represents a spatial expression of the Scottish Government's aspirations for sustainable economic growth in Scotland over the next 20-30 years. It sets out at the national level, the Scottish Government's strategy for the country's development, in terms of how we are to develop our environment and includes development proposals identified as schemes of national importance. Whilst it is not prescriptive, NPF3 will form a material consideration when determining applications and, as such, will be a consideration in determining the application for the Proposed Development.

4.22 The development of onshore wind is supported in NPF3, reflecting the commitments of the Scottish and UK Governments in relation to emissions reduction and renewable energy generation targets with an interim target of 50% by 2015. Paragraph 3.23 highlights wind energy's continued role in contributing towards a low carbon economy and states, '*onshore wind will continue to make a significant contribution to diversification of energy supplies*'. In addition, paragraph 3.7 recognises that onshore wind development can be an opportunity to improve the long-term resilience of rural communities.

4.23 The fourth National Planning Framework (NPF4) is currently in production and will ultimately replace NPF3. It will set out national planning policies, and guide where future development should take place up to 2050. It will also incorporate current Scottish Planning Policy (SPP), such that spatial and thematic policies for planning across Scotland will be in a single document. On 26 November 2020 Scottish Government published the 'NPF4 position statement' confirming a forward timeline for a consultation draft NPF4 in Autumn 2021, with final NPF4 in Spring 2022. Key points in the Position Statement relevant to onshore wind include:

- a likely recognition that 'climate change is a guiding principle for all plans and decisions';
- a need to 'prioritise emissions reduction' and for 'an urgent and radical shift in our spatial plan and policies';
- an expectation that onshore wind will play a significant role in the plan for net-zero emissions; and,
- a recognition that the climate emergency should be a material consideration in considering applications for renewable energy developments.

Scottish Planning Policy (SPP)

4.24 Scottish Planning Policy (SPP) was published in June 2014 (and updated in December 2020) and is a statement of Scottish Government policy on land use planning. SPP continues to emphasise the importance of tackling climate change and, in particular, addresses the continuing need to reduce greenhouse gas emissions and to develop renewable energy projects. Likewise, SPP forms a

material consideration when determining the application for the Proposed Development. The following paragraphs set out the policy issues which are most relevant to the Proposed Development.

Scottish Planning Policy (SPP) - Sustainable Development and Climate Change

- 4.25 One of the over-arching aims of SPP is to achieve Sustainable Development. In its overview of principal policies, SPP states in paragraph 25 that *'achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits'* (p.9). The SPP emphasises as a 'policy principle' that there is a presumption in favour of sustainable development (below paragraph 27).
- 4.26 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'*.
- 4.27 Paragraph 29 sets out that policies and decisions should be guided by certain principles, the first of these is *'giving due weight to net economic benefit'*.
- 4.28 In relation to climate change, paragraph 19 reinforces the role that the planning system can play in helping to ameliorate adverse climatic effects and realise national targets and states, *'by seizing opportunities to encourage mitigation and adaptation measures, planning can support the transformational change required to meet emission reduction targets and influence climate change'*.

Scottish Planning Policy (SPP) – A low carbon place

- 4.29 Paragraph 152 states that the planning system 'must facilitate the transition to a low carbon economy' and paragraph 154 states the planning system should *'support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:*
- *30% of overall energy demand from renewable sources by 2020;*
 - *11% of heat demand from renewable sources by 2020; and*
 - *the equivalent of 100% of electricity demand from renewable sources by 2020'.*
- 4.30 As set out in the following Energy Policy section of this Chapter, it is relevant that these targets have now been largely eclipsed and require updating, as highlighted in the NPF4 Consultation Document described above.
- 4.31 Paragraph 154 goes on to state that the planning system *'should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity...'*
- 4.32 In order to achieve this, paragraph 155 of SPP states that Development Plans *'should seek to ensure an area's full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative impact considerations'* (paragraph 155).

- 4.33 In relation to onshore wind, paragraph 161 states that *'planning authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore windfarms as a guide for developers and communities...Development plans should indicate the minimum scale of onshore wind development that their spatial framework is intended to apply to'*.
- 4.34 Table 1 of SPP sets out the Spatial Framework for onshore wind farms, based on the following groupings:
- *Group 1: Areas where wind farms will not be acceptable (National Parks and National Scenic Areas);*
 - *Group 2: Areas of Significant Protection (National and international designations, other nationally important mapped environment interests including areas of wild land) and a 2km community separation distance for consideration of visual impact;*
 - *Group 3: Areas with potential for wind farm development.*
- 4.35 With reference to the HC OWESG produced in accordance with the SPP, the site is categorised as lying within a Group 2 area where *'wind farms may be appropriate in some circumstances'* owing to the peat resource at this location. An assessment of the potential effects that the proposed development would have on peat is included in Chapter 13, including the technical appendices as appropriate.
- 4.36 Paragraph 169 stipulates that proposals for energy infrastructure should always take account of spatial frameworks for wind farms. A number of key criteria for the consideration of energy infrastructure proposals follows on including socio-economic impacts, scale of contribution to renewable energy targets, cumulative impacts, and many technical and environmental impacts to be considered, for example, landscape, historic environment and natural heritage.
- Scottish Planning Policy (SPP) - Valuing the Natural Environment*
- 4.37 The policy principles for the subject matter are set out in paragraph 194 of the SPP. This states that the planning system should *'facilitate positive change while maintaining and enhancing distinctive landscape character...conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities'*.
- Scottish Planning Policy (SPP) - Valuing Historic Environment*
- 4.38 Paragraph 135 states that *'Planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places which enrich our lives, contribute to our sense of identity and are an important resource for our tourism and leisure'*. Paragraph 137 goes on to state that the planning system should, *'promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning'*.

Scottish Planning Policy (SPP) - Community Benefit

- 4.39 SPP acknowledges the benefits of developer contributions to local communities and states in paragraph 173 that *'Where a proposal is acceptable in land use terms, and consent is being granted, local authorities may wish to engage in negotiations to secure community benefit in line with the Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments'*.

Scottish Planning Policy (SPP) - Rural Development

- 4.40 The SPP places emphasis on supporting sustainable economic growth within rural areas.
- 4.41 Paragraph 75 states that the planning system should *'encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality'*.

Scottish Planning Policy (SPP) - Flooding and Drainage

- 4.42 Paragraph 256 advises that *'the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere'*.
- 4.43 In addition, paragraph 255 requires all surface water from new development to be treated by a sustainable drainage system (SUDS) to minimise the probability of flooding.

Scottish Planning Policy (SPP) - Economic Benefits

- 4.44 Paragraph 93 sets out that the planning system should *'give due weight to net economic benefit of proposed development'*.
- 4.45 Paragraph 94 sets out that *'Plans should align with relevant local economic strategies. These will help planning authorities to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including: energy'*.

Scottish Government Web Based Renewables Planning Advice

- 4.46 In February 2011, PAN 45 Renewable Energy Technologies was superseded by Scottish Government online renewables planning advice. Of particular relevance is the 'Onshore Wind Turbines' advice document.
- 4.47 The advice (last updated in May 2014) states that the suggested areas of focus for planning authorities should include:
- *'Provide greater clarity on where groups of wind turbines can be located by ensuring that a spatial framework for wind farms >20 MW has been set out in the development plan and addressing the potential below 20 MW where appropriate;*
 - *Detail criteria to be applied in assessing wind turbine applications; [...]*
and
 - *Ensure planning conditions and agreements for wind turbine approvals are reasonable and proportionate'*.

4.48 The guidance also outlines a number of typical planning considerations in determining planning applications for onshore wind turbine developments. This includes impacts on the landscape, on wildlife and habitat, ecosystems and biodiversity and on communities, including shadow flicker, noise, electro-magnetic interference, and ice throw.

International Climate Change and Energy Policy

4.49 EU legislation and policy which is filtered down into UK policy is, in turn, driven by international co-operation to cut the emission of greenhouse gas emissions, through the United Nations Framework Convention on Climate Change (UNFCCC). This includes the 'Kyoto Protocol', which became a legally binding treaty on 16 February 2005, and the 'Paris Agreement', established through the 21st session of the Conference of Parties ('COP 21'). Ratified in the UK on 17 November 2016, the Paris Agreement sets out the ambition of holding the increase of global average temperature to 'well below 2°C' and pursuing efforts to limit temperature increase to 1.5°C.

4.50 In December 2008, the package of measures comprising the European Climate and Energy Policy was agreed by the member states. As part of this, a binding target to generate 20% of the energy consumed in the EU from renewables by 2020 was agreed. This has been given legal effect by Directive 2009/28/EC on the promotion of the use of energy from renewable sources. This target includes all energy consumption and is not restricted to electricity. In December 2018, a new revised Renewables Energy Directive came in to force (2018/2001)–establishing a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023.

4.51 Following the UK's notification of its intention to leave the EU under Article 50 of the Treaty of the EU on 29 March 2017, the European Union (Withdrawal) Act 2018 converts all EU laws, rules and targets into domestic UK governance. The existing EU renewable energy targets for the UK such as the Renewable Energy Directive are therefore considered to remain applicable unless and until changed by domestic legislation.

4.52 For the UK, the key obligation is for 15% of all energy consumed in the UK to come from renewable sources by 2020. At the end of 2019 renewable energy accounted for only c.13.9% of energy consumption in the UK.

UK Climate Change and Energy Policy

4.53 The UK ratified the UN Paris Agreement in November 2016 and therefore contributes to the framework to ensure that global warming is kept well below 2°C, pursuing efforts to limit the temperature increase to 1.5°C.

Climate Change Act 2008

4.54 In November 2008, three statutes received Royal Assent that, together, provide a framework for UK climate and energy policy: the Climate Change Act 2008; the Planning Act 2008; and the Energy Act 2008.

4.55 The Climate Change Act became law on 26th November 2008 and introduced a legally binding target for the UK to reduce CO₂ emissions by at least 80% by 2050, relative to 1990 levels. Efforts to reduce emissions in Scotland would

contribute to achievement of UK wide targets, as well as meeting Scotland specific targets as discussed below.

The UK Net Zero Target

- 4.56 On the 28th June 2019, section 1(1) of the Climate Change Act 2008 was amended changing the requirement for the net UK carbon account for the year 2050 from at least 80% lower than the 1990 baseline to at least 100% lower than the 1990 baseline. In effect the 2050 carbon dioxide emissions target has reduced from 155.6 million tonnes to net-zero tonnes.

Committee on Climate Change – various progress report updates to Government

- 4.57 The UK government is required to set five-year carbon budgets, which place binding limits on greenhouse gas emissions and define the trajectory towards the 2050 target. These are set out in law and legally commit the UK to meeting the budgets.

- 4.58 The UK is currently not on track to meet its previous, less ambitious, target of 80% emissions reductions by 2050. The Climate Change Committee (CCC) stated in May 2019 that getting to net zero (i.e. meeting the 100% target) is '*technically feasible but highly challenging*'.

- 4.59 The CCC published its latest Annual Report to the UK Parliament (required under the Climate Change Act 2008) on 25 June 2020. The report recommends that Ministers '*seize the opportunity to turn the COVID-19 crisis into a defining moment in the fight against climate change*', stating that only limited steps have been taken over the past year to support the transition to a net-zero economy and improve the UK's resilience to the impacts of climate change, adding '*that much remains to be done*'. In terms of renewables, the report welcomes plans to bring onshore wind back into the system of power auctions and states a clear timetable for future auctions would support delivery and development of supply chains. The report also indicates that reaching net zero emissions in the UK will require all energy to be delivered to consumers in zero-carbon form, i.e., renewables and nuclear, bioenergy and fossil fuels combined with carbon capture and storage.

UK Government Response to CCC Progress Report (October 2020)

- 4.60 The Government response to the latest CCC Progress Report to Parliament was published in October 2020. The Executive Summary (page 7) sets out that attaining net zero will involve fundamental changes across the UK economy and: '*under any feasible scenario, meeting net zero will require reductions in emissions across the economy on a scale not previously seen; ambitious and early deployment of existing technologies and approaches; and innovation in new technologies... will enable us to offset emissions from sectors which cannot fully decarbonise*'. In response a key objective identified is the delivery of more renewable energy.

UK Energy White Paper (December 2020)

- 4.61 The Energy White Paper '*Powering our Net Zero Future*' was published on 14 December 2020. It sets out a long term strategic vision for the energy system consistent with net zero emissions by 2050, seeking to support a green recovery

from COVID-19 and to respond to the fact that electricity demand could double by 2050. Notably the White Paper sets out that *'onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios'* (page 45).

The UK's Sixth Carbon Budget (December 2020)

- 4.62 This CCC publication, entitled 'The UK's Path to Net Zero', contains recommendations to the budget period of 2033-2037. It requires a reduction in UK greenhouse gas emissions of 78% by 2035 relative to 1990 levels. In terms of next steps, the Government needs to set the Sixth Carbon Budget in law by the end of June 2021 and this is to be followed *'as soon as is practicable by a set of policies and proposals that demonstrably would meet the budget'* (page 31).

Scottish Climate Change and Energy Policy, including renewable energy targets

- 4.63 The Scottish Government has published a number of climate change and energy policy documents and its own targets. The new policy context continues to provide strong support for onshore wind. The relevant Scottish legislation and policy includes the following:

- The Scottish Energy Strategy (December 2017);
- The Onshore Wind Policy Statement (December 2017).
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019;
- The Scottish Government's Programme for Scotland 2019-2020 and 2020-2021; and,
- The Update to the Climate Change Plan (December 2020).

- 4.64 These are introduced and discussed below.

Scottish Energy Strategy (2017)

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

- 4.66 A key goal within the strategy is that Scotland will become a world leader in renewable and low carbon technologies and services. The Strategy sets out that this ambition will be guided by three core principles:

- A whole system view;
- An inclusive energy transition; and
- A smarter local energy model.

- 4.67 The Strategy sets out a target for Scotland to achieve almost complete decarbonisation of energy, and sets a 2030 'all energy' target for the equivalent of 50% of Scotland's heat, transport and electricity consumption to be supplied from renewable sources. This vision is also included in the final Climate Change Plan (February 2018), although this has since been amended as set out below.

- 4.68 The SES sets out on page 35 that *'Scottish Government analysis underpinning this target shows that renewable electricity – which has already outperformed our interim 2015 target of 50% – could rise to over 140% of Scottish electricity consumption, ensuring its contribution to the wider renewable energy target for 2030'*, and that *'This assumes a considerably higher market penetration of renewable electricity than today – requiring in the region of 17GW of installed capacity in 2030 (compared to 9.5 GW in June 2017) – with greater interconnection with parts of continental Europe providing an expanded market for our electricity'*.
- 4.69 The SES also includes a second target, which is to achieve an increase by 30% in the productivity of energy use across the Scottish economy, which relates to greater efficiency whilst decoupling energy use from productivity, so that productivity can increase without necessarily requiring greater energy demands.
- 4.70 In general terms, onshore wind is also recognised as a key opportunity. The SES sets out that *'Onshore wind is now amongst the lowest cost forms of power generation of any kind, and is a vital component of the huge industrial opportunity that renewables create for Scotland. The sector supports an estimated 7,500 jobs in Scotland, and generated more than £3 billion in turnover in 2015.'*
- 4.71 Many of these targets are now eclipsed or replaced by those announced in 2020 as set out below.
- Onshore Wind Policy Statement*
- 4.72 The Onshore Wind Policy Statement along with the Scottish Energy Strategy was published in December 2017, providing specific national policy with regards to onshore wind. The Ministerial Foreword sets out that *'There is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally create for Scotland. The sector supports an estimated 7,500 jobs in Scotland, or 58% of the total for onshore wind across the UK, and generated more than £3 billion in turnover in 2015. Developers are increasingly managing international onshore wind projects from their bases in Scotland'* (page 2).
- 4.73 It further adds that *'Our energy and climate change goals mean that onshore wind will continue to play a vital role in Scotland's future – helping to substantively decarbonise our electricity supplies, heat and transport systems, thereby boosting our economy, and meeting local and national demand. This important role means we must support development in the right places, and – increasingly – the extension and replacement of existing sites, where acceptable, with new and larger turbines, based on an appropriate, case by case assessment of their effects and impacts'* (page 3).
- 4.74 The section of the report 'Route to Market' sets out that *'In order for onshore wind to play its vital role in meeting Scotland's energy needs, and a material role in growing our economy, its contribution must continue to grow. Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system, helping to meet the greater demand from our heat and transport sectors, as well as making further progress towards the ambitious renewable*

targets which the Scottish Government has set' and 'This means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated' (page 6).

- 4.75 This section continues, setting out that *'the industrial opportunity, and the extent to which we can continue to capture these benefits, remains a top priority for Scottish Ministers' (page 7).*

The declared Climate Emergency in Scotland

- 4.76 Scottish First Minister Nicola Sturgeon declared a 'Climate Emergency' in her speech to the SNP Conference in April 2019, stating: *'As First Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it.'*

- 4.77 Climate Change Secretary Roseanna Cunningham then made a further statement on 14 May 2019 to the Scottish Parliament on *the 'Global Climate Emergency'*. Again, with reference to the recent CCC Report: *'There is a global climate emergency. The evidence is irrefutable. The science is clear. And people have been clear: they expect action The Intergovernmental Panel on Climate Change issued a stark warning last year the world must act now. By 2030 it will be too late to limit warming to 1.5 degrees. We acted immediately with amendments to our Climate Change Bill to set a 2045 target for net zero emissions - as we said we'd do. If agreed by Parliament, these will be the most stringent legislative targets anywhere in the world and Scotland's contribution to climate change will end, definitively, within a generation. The CCC was clear that this will be enormously challenging....'*

- 4.78 The Minister also highlighted the important role of the planning system stating: *'And subject to the passage of the Planning Bill at Stage 3, the next National Planning Framework and review of Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals'.*

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

- 4.79 The Climate Change (Emissions Reduction Targets) Bill received Royal Assent on 31st October 2019. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (The 2019 Act) introduces even more ambitious targets than those previously contained in the Climate Change (Scotland) Act 2009, and in doing so, Scotland will become one of the first countries to legislate support for the aims of the Paris Agreement.

- 4.80 The 2019 Act seeks to amend only those parts of the Climate Change (Scotland) Act 2009 that relate to emission reduction targets and associated reporting duties. The detailed proposals and policies for delivering against targets are to be set out in the current and future Climate Change Plans.

- 4.81 The 2019 Act sets a target date of 2045 for reaching net-zero emissions. The 2019 Act states that the Scottish Ministers must ensure that the net Scottish emissions account for the year:

- 2020 is at least 56% lower than the baseline;
- 2030 is at least 75% lower than the baseline; and,

- 2040 is at least 90% lower than the baseline.

The Programme for Government (2019, 2020)

- 4.82 In response to the declaration of a 'Climate Emergency' in Scotland, and the UK as a whole, the 'Programme for Government' was first published on 3rd September 2019 setting out actions including those *'that will be taken to end Scotland's contribution to global climate change'*.
- 4.83 The 2019 Programme responds to 12 specific requests from the 'Climate Emergency Response Group'. One such request is for the completion of plans for how renewable electricity is generated in order to reach net zero emissions by 2045. Page 37 confirms that the Scottish Government's next Energy Statement will set out the extent to which renewable and low carbon energy generation will need to be combined in order to meet net zero and that this will subsequently be monitored on an annual basis and that this will ultimately form part of a wider review of targets and policies to inform the updated Climate Change Plan. Page 39 further states that the global climate emergency necessitates consideration of more radical planning policy options.
- 4.84 The latest Programme for 2020-2021 was published in September 2020 with an emphasis on a Green Recovery to the COVID-19 pandemic in addition to achieving net zero. Page 36 sets out that *'the Government's response will ensure that a green recovery is at the heart of the economic recovery'* and it states that *'an updated Climate Change Plan will be published before the end of 2020'*.
The Update to the Climate Change Plan (2018-2032) (December 2020)
- 4.85 This Scottish Government update responds to the new net zero targets aimed at ending Scotland's contribution to climate change by 2045. It covers the period 2018-2032 within which the Government has committed to reduce greenhouse gas emissions by 75% by 2030 (compared with 1990 levels) as set out at para 4.51 above.
- 4.86 In terms of renewable electricity generation, the CCP update refers to *'further policies to continue the rapid growth in renewable generation over the past 20 years, moving from a low to a zero-carbon electricity system'*. Reference is also made to an Energy Strategy update in 2021 and an updated Electricity Generation Policy Statement by 2022.
- 4.87 Most notable is the reference at page 18 within the 'pathway to 2032' which includes reference to *'a substantial increase in renewable generation, particularly through new offshore and on shore wind capacity'*. Annex A to the CCP also includes at 'outcome 1' that *'the electricity system will be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies'*. In addition, the target is maintained of *'a new renewable all energy consumption target of 50% by 2030, covering electricity, heat and transport'*.