

5 Policy Framework

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5 Policy Framework

5.1 Introduction

- 5.1.1 This Chapter of the Environmental Impact Assessment Report (EIA Report) 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. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report in order to ensure that it provides the appropriate information for the consideration of the planning application.
- 5.1.2 This Chapter does not include an assessment of the accordance of the Proposed Development against planning policy: a separate Planning Statement has been prepared to support the planning application and should be referred to for a detailed planning policy appraisal.
- 5.1.3 The Chapter has been authored by Mr David C Bell BSc(Hons) DipUD, MCIHT, MRTPI.

5.2 The Statutory Framework

- 5.2.1 The principal applicable planning statute which applies 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. Section 25 of the Planning Act states that:

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

5.3 Renewable Energy Policy: Summary

- 5.3.1 In recent years United Kingdom (UK) and Scottish Government policies have focussed increasingly on concerns about climate change. Each tier of Government has developed targets, policies and actions to achieve targets to deal with the climate crisis and generate more renewable energy and electricity.
- 5.3.2 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.
- 5.3.3 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 Government's 'Programme for Government' (September 2020);
 - The Scottish Climate Change Plan Update (2020);
 - The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the legally binding net zero target for 2045 and interim targets for 2030 and 2040;

- The Scottish Government's 'Programme for Government' (September 2021); and
- The Onshore Wind Policy Statement Refresh: Consultative Draft (October 2021).

5.3.4 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.”*

5.3.5 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.

5.3.6 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.

5.3.7 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.

5.4 National Planning Policy

National Planning Framework 3

5.4.1 National Planning Framework 3 (2014) (NPF3) is a long-term strategy for Scotland. It is the spatial expression of the Scottish Government’s Economic Strategy, and of plans for development and investment in infrastructure.

5.4.2 Part of the vision is of Scotland as a low carbon place, where the opportunities arising from the ambition to be a world leader in low carbon energy generation have been seized. NPF3 is informed by, and aims to help achieve, the Scottish Government’s climate change and renewable energy targets.

5.4.3 NPF3 acknowledges that the energy sector accounts for a significant share of the country’s greenhouse gas emissions, and that addressing this requires capitalising on Scotland’s outstanding natural advantages, including its significant wind resource. NPF3 makes it clear that onshore wind will continue to play a significant role in de-carbonising the energy sector and diversifying energy supply.

5.4.4 National Planning Policy Framework 4 (NPF4) is under preparation and will include all aspects of national planning policy as per the provisions of the Planning (Scotland) Act 2019. The NPF4 ‘Position Statement’ was published for consultation on the 26th November 2020 and a consultation draft NPF4 was issued for consultation in November 2021 (this is referenced below).

Scottish Planning Policy

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

5.4.6 SPP contains a number of principal policies, one of which expresses “*a presumption in favour of development that contributes to sustainable development*”. Paragraph 28 states that:

“the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost”.

- 5.4.7 Paragraph 29 highlights a series of criteria which should guide decision-making in this regard and the following provisions are considered relevant to the Proposed Development:
- Net economic benefit;
 - Economic issues, challenges and opportunities;
 - Good design and qualities of successful places;
 - Delivery of infrastructure;
 - Climate change mitigation and adaptation;
 - Principles of sustainable land use as set out in the land use strategy;
 - Protecting, enhancing and promoting cultural heritage;
 - Protecting, enhancing and promoting natural heritage and landscape;
 - Reducing waste; and
 - Over-development, amenity and effects on water, soil and air.
- 5.4.8 SPP sets out at paragraph 154 that to support in achieving the outcome of making Scotland a low carbon place, the planning system should support the change to a low carbon economy, including deriving the equivalent of 100% of electricity demand from renewable sources by 2020. It should support the development of electricity generation from a diverse range of renewable sources. It should guide development to appropriate locations and advise on the issues that should be taken into account when specific proposals are being assessed.
- 5.4.9 Onshore wind is referred to specifically in paragraphs 161 to 166 (development planning considerations) and paragraphs 169 to 174 (development management considerations) of SPP within the 'Low Carbon Place' outcome. Development planning guidance for onshore wind includes reference to the need for planning authorities to set out in their development plans a Spatial Framework identifying those areas that are likely to be most appropriate for onshore wind farms. Table 1 in SPP provides guidance on how spatial frameworks should be set out. They should identify three types of areas including:
- Group 1: Areas where wind farms will not be acceptable (National Parks and National Scenic Areas);
 - Group 2: Areas of significant protection (i.e. national and international designations, nationally important environmental interests, community separation for considering visual impact); and
 - Group 3: Areas with potential for wind farm development (where wind farms are likely to be acceptable subject to consideration of details).
- 5.4.10 More generally, SPP advises that the siting and design of development should take account of local landscape character. Decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Applicants should seek to minimise adverse impacts through careful planning and design. Planning permission should be refused where the nature or scale of a development would have an unacceptable impact on the natural environment.
- 5.4.11 Beyond the Spatial Framework for wind farms the following considerations, outlined in paragraph 169, should be taken into account (where applicable) when determining development proposals:
- Net economic impact;
 - Scale of contribution to renewable energy generation targets;
 - Effect on greenhouse gas emissions;

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

5.4.12 As noted, SPP is under review and the new NPF4 will become the single national planning policy document, replacing both NPF3 and SPP and it will have Development Plan status when it comes into force.

Draft National Planning Framework 4

5.4.13 The draft NPF4 was published in November 2021. Once approved, it will replace both NPF3 and SPP and will become part of the statutory Development Plan and will directly influence planning decisions. Now that the document has been published it is a material consideration.

5.4.14 In the Ministerial Foreword, the Minister for Public Finance, Planning and community Wealth states: *“This, our fourth National Planning Framework sets out how our approach to planning and development will help to achieve a net zero, sustainable Scotland by 2045.”*

5.4.15 The draft NPF4 (part 2, page 44) continues the planning policy approach of identifying ‘national developments’ which refers to the allocation of national development status to certain classes of development. The draft NPF4 states that *“national developments are significant developments of national importance that will help to deliver our spatial strategy”*.

5.4.16 18 national developments are proposed to support the delivery of the Spatial Strategy and it has set out that *“this designation means that the principle of the development does not need to be agreed and later consenting processes, providing more certainty for communities, business and investors”*.

5.4.17 There are three categories of national development proposed namely ‘liveable places, productive places and distinctive places’. Within the ‘productive places’ category is proposed national development 12 entitled ‘strategic renewable electricity generation and transmission infrastructure’.

5.4.18 In terms of designation and classes of development, it is set out that a development within one or more of the classes of development set out in the NPF4 and that is of a scale or type that would otherwise have been classified as ‘major’ by the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 is designated as a ‘national development’ - these

include: “Electricity generation, including electricity storage, from renewables of or exceeding 50 megawatts capacity”.

5.4.19 Part 3 of the draft NPF contains proposed new ‘National Planning Policy’. The draft policy of particular relevance to the Proposed Development is Policy 2 entitled ‘Climate Emergency’ these states at Part A that “when considering all development proposals significant weight should be given to the global climate emergency”.

5.4.20 Under the theme of ‘productive places’ (page 90) is draft Policy 19 in relation to ‘Green Energy’.

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

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

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

5.5 National Planning Advice

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

Table 5.1 – Relevant PANs and 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 NatureScot) and use of the EIA process to identify the environmental effects of development proposals and seek to prevent, reduce and offset any adverse effects in ecology and biodiversity.

PAN 61 (2001) Sustainable Urban Drainage Systems	Good practice drainage guidance.
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.
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.
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.

5.6 The Development Plan & Relevant Policies

5.6.1 The statutory Development Plan comprises the Orkney Local Development Plan (LDP) adopted in April 2017 together with Supplementary Guidance (SG). The SG documents of relevance are:

- Energy
- Natural Environment; and
- Historic Environment and Cultural Heritage.

5.6.2 The Council has also produced a 'Landscape Capacity Assessment for Wind Energy in Orkney' (2014).

5.6.3 Relevant policies from the LDP are as follows:

- Policy 1: Criteria for All Development;
- Policy 7: Energy;
- Policy 8: Historic Environment & Cultural Heritage;
- Policy 9: Natural Heritage & Landscape;
- Policy 10: Green Infrastructure;
- Policy 13: Flood Risk, SuDs & Waste Water Drainage

- Policy 14: Transport, Travel & Road Network Infrastructure.

5.6.4 Relevant aspects of these policies are set out below.

Policy 1: Criteria for All Development

Development will be supported where:

- *It is sited and designed taking into consideration the location and the wider townscape, landscape and coastal character;*
- *The proposed density of the development is appropriate to the location;*
- *It is not prejudicial to the effective development of, or existing use of, the wider area;*
- *The amenity of the surrounding area is preserved and there are no unacceptable adverse impacts on the amenity of adjacent and nearby properties/users;*
- *It would not create an unacceptable burden on existing infrastructure and services that cannot be resolved;*
- *It does not result in an unacceptable level of risk to public health and safety;*
- *It is resource efficient and utilises sustainable construction technologies, techniques and materials and, where practicable, low and zero carbon generating technologies are installed;*
- *It facilitates the prevention, reuse, recycling, energy recovery and disposal of waste, including where relevant, the use of Site Waste Management Plans;*
- *It protects and where possible enhances and promotes access to natural heritage, including green infrastructure, landscape and the wider environment; and*
- *It protects and where possible enhances Orkney’s cultural heritage resources*

Policy 7: Energy

C All Renewables and Low Carbon Energy Developments

- i. The development of renewable and low carbon energy schemes, including the onshore infrastructure and/or buildings required for offshore marine renewable energy developments, and related transmission infrastructure, will be supported where it has been demonstrated that the proposal will not result in significant adverse effects on known constraints, either individually or cumulatively. Sufficient supporting information must be submitted with any planning application to enable a full assessment to be made of the likely effects of the development.*
- ii. Conflict with adjoining uses must be avoided and developments may not compromise the viability of any existing land use allocation or approved land use proposal in the surrounding area.*
- iii. The net-economic impacts of a proposal, including local and community socioeconomic benefits such as employment, associated businesses and supply chain opportunities, will be taken into consideration and any demonstrable benefits will be balanced against any identified adverse impacts on known constraints.*

D Onshore Wind Energy Development

- i. Proposals for wind energy developments of all scales, including extensions to existing developments and repowering, will be assessed against the following factors to ensure that there will be no significant adverse individual or cumulative impacts:*
 - a. Communities and Amenity*

- b. *Landscape and Visual Impact*
- c. *Natural Heritage*
- d. *Historic Environment*
- e. *Tourism and Recreation*
- f. *Peat and Carbon Rich Soils*
- g. *Water Environment*
- h. *Aviation, Defence and Communications*
- i. *Construction and Decommissioning*

Applications for any wind farms should take account of the Spatial Strategy Framework for windfarm development:

- a. *Areas with potential capacity to accommodate wind farms have been identified as ‘Areas with Potential for Wind Farm Development’; representing the areas of least constraint to wind energy development. Wind energy development is likely to be supported in principle within these areas, subject to proposals complying with the Development Criteria from Supplementary Guidance: Energy and any other material planning consideration.*
- b. *Within the ‘Areas of Significant Protection’ wind farm development may be supported when a proposal complies with the Development Criteria from Supplementary Guidance: Energy and where it can be demonstrated by the applicant that any significant effects on the qualities of these areas can be overcome by siting, design or other mitigation.*
- c. *Wind farm developments will not be supported within the National Scenic Area.*
 - i. *Throughout the lifetime of the Plan, OIC will investigate potential ‘Strategic Wind Energy Development Areas’ within which the principle of wind farm developments will be supported. Any such areas will be subject to appropriate assessment and full public consultation before being adopted within Supplementary Guidance: Energy.*
 - ii. *Consent for wind energy developments may be granted for a maximum period (usually 25 years) from final commissioning/the date that the device commences energy generation. Planning conditions and, where required, a financial bond, letter of credit and/or Legal Agreement will be attached in relation to the removal of the development and to the restoration of the site at the point when the planning permission expires or when the project ceases to operate for a specified period of time.*
 - iii. *Applications for the erection of monitoring equipment, anemometer masts etc., in relation to proposed wind farm projects in advance of a full application being submitted will be supported subject to other development plan policies and any other material considerations. Any planning permission for monitoring/survey equipment will normally be limited to a maximum period of 2 years unless the need for a longer monitoring period can be demonstrated. Consideration should be given to using digital monitoring equipment, especially to mitigate impacts in sensitive locations*

Policy 8: Historic Environment & Cultural Heritage

A: All Development

Development which preserves or enhances the archaeological, architectural, artistic, commemorative or historic significance of cultural heritage assets, including their settings, will be supported. Development which would have an adverse impact on this significance will only be permitted where it can be demonstrated that:

- *measures will be taken to mitigate any loss of this significance; and*

- any lost significance which cannot be mitigated is outweighed by the social, economic, environmental or safety benefits of the development.

B: Specific Policy Considerations

Heart of Neolithic Orkney World Heritage Site

Development within the Inner Sensitive Zones will only be permitted where it is demonstrated that the development would not have a significant negative impact on the Outstanding Universal Value of the World Heritage Site or its setting.

Development will not be permitted where it breaks the skyline at the sensitive ridgelines of the World Heritage Site when viewed from any of its component parts, or where it will be sited in any location where there is the potential to impact upon the World Heritage Site, unless it is demonstrated that the development will not have a significant negative impact on either the Outstanding Universal Value or the setting of the World Heritage Site.

Listed Buildings

Change to a listed building must be managed to protect its special interest while enabling it to remain in/return to active use. Applications for development must have regard to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest.

Scheduled Monuments

Where there is potential for a proposed development to have an adverse effect on the integrity of the setting of a scheduled monument, planning permission will only be granted where:

- there are exceptional circumstances;
- there is no practical alternative site; and
- there are imperative reasons of over-riding public need.

Inventory Gardens and Designed Landscapes

Development which preserves or enhances the character and features of inventory gardens and designed landscapes and their setting, will be supported.

Development that would have a significant negative impact upon the character of their areas will not be permitted. The conservation, maintenance and restoration, including the restoration of layout and features, will be supported where this is appropriate and based on historical research.

Investigation & Recording

Where there is the potential for historic environment assets to exist in particularly sensitive areas, such as the Inner Sensitive Zone of the World Heritage Site or the historic core of Kirkwall, applicants may be required to undertake 'Cultural Heritage Impact Assessments' to ensure that there will be no unacceptable effects on any known or potential historic environment assets.

Where development, which has the potential to impact on areas known or suspected to contain archaeological deposits is permitted, planning conditions will be attached to ensure the effective assessment, analysis, archiving and publication of any archaeological remains to an agreed timeframe.

Where a historic environment asset, or a significant element thereof, will be lost as a result of a development, it may be necessary to record the site to an agreed level prior to the commencement of development/ demolition.

Policy 9 Natural Heritage & Landscape

A. Natural Heritage Designations

Internationally Designated Sites

Development likely to have a significant effect on a site designated or proposed as a Special Protection Area (SPA) or Special Area of Conservation (SAC), collectively known as Natura 2000 sites, individually or cumulatively and not directly connected with, or necessary to the conservation management of that site must be subject to an Appropriate Assessment in order to assess the implications for the site's conservation objectives.

Development will only be permitted where the Assessment ascertains that:

- a) it would not adversely affect the objectives of the designation or the integrity of the site; or*
- b) there is no alternative solution; and*
- c) there are imperative reasons of over-riding public interest, including those of a social or economic nature.*

A derogation is available where there are no alternative solutions; there are imperative reasons of overriding public interests, including those of a social or economic nature; and compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

The international importance of Ramsar sites should also be appropriately protected.

Nationally Designated Sites

Development that negatively affects a Site of Special Scientific Interest (SSSI) will only be permitted where:

- a) the objectives of the designation and the overall integrity of the area will not be compromised;*
- or*
- b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.*

Development capable of affecting a Nature Conservation Marine Protected Area (NC MPA) will only be permitted where it can be demonstrated that:

- a) there is no significant risk of hindering the achievement of the conservation objectives of the NC MPA; or*
- b) there is no alternative that would have a substantially lower risk of hindering the achievement of the conservation objectives of the NC MPA; and*
- c) the public benefit outweighs the risk of damage to the environment.*

Locally Important Sites

Development likely to negatively affect a Local Nature Conservation Site (LNCS), Local Nature Reserve (LNR) or unnotified Geological Conservation Review (GCR) site will only be permitted where there is no feasible alternative location; and

- a) mitigative measures will be satisfactorily implemented to ensure that it will not affect the integrity of the area or the qualities for which it has been designated; or*
- b) any such effects are clearly outweighed by social, environmental or economic benefits. Details of Local Nature Conservation Sites are contained in Supplementary Guidance: Natural Environment.*

B. Protected Species

- i. Development likely to have an adverse effect on any protected species will not be permitted unless it can be justified in accordance with the relevant protected species legislation.*
- ii. Where there is evidence to indicate that a protected species may be present on, or adjacent to, a development site and could be affected by the proposal, the Planning Authority may require an ecological survey and/or mitigation plan to be submitted with the planning application.*

C. Wider Biodiversity and Geodiversity

- i. All development proposals must seek to avoid damage to, or loss of, biodiversity and geodiversity, and should enable the maintenance of healthy ecosystems, as well as natural*

features and processes which provide important services to communities e.g. coastal protection, flood risk mitigation or carbon storage.

- ii. *All development proposals should have due regard for priority habitats and species identified in the UK Biodiversity Action Plan, the Scottish Biodiversity List, the list of Priority Marine Features and the Orkney Local Biodiversity Action Plan. Where possible, new development should incorporate benefits for biodiversity, and avoid further fragmentation or isolation of habitats.*
- iii. *Where there is evidence to indicate that a priority habitat or species may be present on, or adjacent to, a development site and could be affected by the proposal, the Planning Authority may require an ecological survey and/or mitigation plan to be submitted with the planning application.*

D. The Water Environment

- i. *In accordance with the River Basin Management Plan for Scotland River Basin District 2015/2027, development proposals should seek to protect and, where possible, improve the water environment (river streams, lochs, groundwater, estuaries, coastal waters (to 3 nautical miles) and wetlands including Groundwater Terrestrial Ecosystems). Where this is not possible, it must be clearly demonstrated that the development:*
 - a) *will avoid causing deterioration in the water quality or overall status of water bodies and, for any water body currently not achieving good status, will not prevent it from being able to achieve good status in the future.*
 - b) *includes the management and/or enhancement of existing habitats and, if appropriate, the creation of new habitats.*
 - c) *will not significantly affect water quality, flows and sediment transport, either during construction or after completion. Where a development proposal is located adjacent to the water environment, and a bank-side (waterside) location is not essential to the proposal, an appropriate buffer zone between the development and the water body should be included, within which development should be avoided.*
- ii. *There is a presumption against unnecessary culverting and engineering activities in the water environment*

E. Peat and Soils

- i. *Development on areas of peat or carbon-rich soils will only be permitted where:*
 - a) *it has been clearly demonstrated that there is no viable alternative;*
 - b) *an acceptance assessment of the likely effects of the development on carbon dioxide emissions has been undertaken and submitted; and*
 - c) *the economic and social benefits of the development clearly outweigh any potential detrimental effects on the environment, including likely carbon dioxide emissions.*
- ii. *Where development on peat or carbon-rich soil is permitted, the Council may ask for a peatland management plan to be submitted which is supported by an appropriate peat survey and clearly demonstrates how the unnecessary disturbance, degradation and erosion of peat and soils will be avoided and, where this is not possible, minimised and mitigated.*
- iii. *New areas of commercial peat extraction will only be permitted where it can be demonstrated that:*
 - a) *it is an area of degraded peatland which has been damaged by human activity and has low conservation value and, as a result, restoration is not possible.*
- iv. *The applicant must submit a method statement, and where necessary a soil management plan, in support of any application.*

F. Trees and Woodland

- i. *Development that would result in the loss of, or damage to, one or more trees protected by a Tree Preservation Order; or lead to the loss of, or damage to, individual trees or woodlands of significant ecological, landscape, shelter or recreational value will not be permitted unless:*
 - a) *it would achieve significant and clearly defined benefits that outweigh any potential loss;*
 - b) *an evaluation, to the appropriate British Standard (or a suitable standard to be agreed with the Planning Authority) of the ecological, landscape, shelter and recreational value of the tree(s) has been undertaken and it is concluded that the loss would be acceptable; and*
 - c) *an additional or equivalent number of new trees are planted on, or near the site to an agreed standard and specification (species and maturity).*
- ii. *Works to trees must not result in any unnecessary fragmentation of a green network.*

G. Landscape

- i. *All development proposals must be sited and designed to minimise negative impacts on the landscape, townscape and seascape characteristics and landscape sensitivities that are identified in the Orkney Landscape Character Assessment and should be sympathetic to locally important natural and/or historic features within the landscape.*
- ii. *Consideration should be given to the siting, scale and design of the proposal, as well as the potential for cumulative effects with other developments.*
- iii. *Development that affects the National Scenic Area (NSA) will only be permitted where it is demonstrated that:*
 - a) *the proposal will not have a significant effect on the overall integrity of the area or the qualities for which it has been designated; or*
 - b) *any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.*
- iv. *Development proposals affecting the area of wild land on Hoy will only be permitted where it has been demonstrated that any significant effects on the character and qualities of this area can be substantially overcome by siting, design or other mitigation.*

Policy 10 Green Infrastructure (Paths, Open Spaces & Green Networks)

A. Core Paths & Access

- i. *Development should have no unacceptable adverse impact on statutory access rights, core paths, other public footpaths or rights of way.*
- ii. *Where a proposal will affect access rights, a core path, a right of way or other public paths it will be necessary to:*
 - a) *Maintain or enhance the amenity value of the current route; or*
 - b) *Provide an alternative path or access that is both safe and convenient for the public to use.*

Policy 13: Flood Risk, SuDs & Waste Water Drainage

Flood Risk

A Flood Risk Assessment must be undertaken in accordance with SEPA technical guidance where development proposals are in areas identified as being of medium to high risk of flooding and, in certain circumstances described in the SPP Flood Risk Framework, may also be required in the low to medium risk category.

Sustainable Drainage Systems (SuDS)

Development proposals must incorporate Sustainable Drainage Systems (SuDS) in accordance with current national guidance,

Policy 14 Transport, Travel & Road Network Infrastructure

Road Network Infrastructure Development will only be permitted where due regard has been paid to Designing Streets and the proposal demonstrates that:

- i. It is well connected to the existing network of roads, paths and cycleways and will not create a barrier to future development;*
- ii. It can be safely and conveniently accessed by service, delivery and other goods vehicles, as appropriate to the development;*
- iii. Any new access, or upgrades to an existing access, linking to the adopted road network has been designed to an adoptable standard as defined by the National Roads Development Guide (new accesses should be resource efficient, safe for all road users, and convenient for sustainable travel modes);*
- iv. It is designed to cause minimal impact on the character of the site and the surrounding area; and*
- v. There are satisfactory arrangements to ensure that there is provision for the long term maintenance.*

5.7 Supplementary Guidance

The SG Energy

- 5.7.1 The SG 'Energy' was adopted on 9 March 2017 and as confirmed on page 1 of the SG Energy, now has "*statutory weight in the determination of planning applications and forms part of the plan.*"
- 5.7.2 Paragraph 1.03 of the SG Energy confirms its purpose is seeking "*to ensure that appropriate development can take place, whilst at the same time seeking to ensure the character and special qualities of Orkney is not adversely affected.*"
- 5.7.3 Paragraph 1.04, sets out that the guidance accompanies Policy 7 of the LDP which "*seeks to support appropriate renewable energy development... whilst offering a transparent and robust framework for the assessment of relevant development proposals.*" Policy 7 of the LDP has been set out above.
- 5.7.4 Sections 1.09 and 1.10 of the SG detail expectations with respect to community benefit but detail that "*negotiations for community benefit payments will take place independently from the planning process.*"
- 5.7.5 Section 1.11 "Positive Impacts" states that the Council, "*will strive to balance both positive and negative factors associated with a proposal prior to making a determination. Where there are significant adverse impacts on known constraints, the onus will be on the developer to demonstrate that the positive impacts, including net economic impact, the scale of contribution to renewable energy generation targets and the effects on greenhouse gas emissions, outweigh these*".
- 5.7.6 Section 2 sets out further detail on the requirement to balance the impacts of development in the context of Policy 7 of the LDP.
- 5.7.7 Sections 2.05 to 2.12 provide guidance on assessing the net economic impacts with "*the key criterion in assessing the economic impact of a proposed development is to estimate the economic position where the development proceeds, and then compare it with the estimated economic position if the proposal does not go ahead.*"
- 5.7.8 Wind Energy is specifically covered in section 4 of the SG Energy and there is reference to the Spatial Framework (as required by SPP) for wind farm developments and "*encouragement for all applicants ... to consider the spatial framework at an early stage to identify potential constraints that may impact upon their development proposal.*"
- 5.7.9 The Spatial Strategy Framework is further considered in section 4 of the SG Energy. Paragraph 4.12 states that "*developers of 'wind farms' are generally directed to 'Areas with Potential for Wind Farms' where there are the lowest levels of potential constraints to wind energy developments.*"

- 5.7.10 Paragraph 4.13 defines how the Areas of Potential for Wind Farm development have been identified, confirming that *“these areas have been defined by eliminating sensitive areas that require significant protection or are sensitive to wind farm development”* and that *“It is not guaranteed that development within these areas will be technically feasible or appropriate and each application will be judged on its merits against the Development Criteria (from paragraph 4.18)”*.
- 5.7.11 Spatial Policy SP1, below para 4.13 of the SG confirms that “Areas with potential for wind farms” in the Spatial Framework represent the areas of least constraint.
- 5.7.12 Spatial Policy SP1 states: *“Areas with potential capacity to accommodate wind farms have been identified as ‘Areas With Potential for Wind Farms’ and are shown in Figure 1. These places represent the areas of least constraint to wind energy development. Wind energy development is likely to be supported in principle within the areas subject to proposals complying with the Development Criteria and any other material planning consideration”*
- 5.7.13 Spatial Policy 2 addresses “Areas of Significant Protection” in which justification, along with mitigation, will have to be provided in support of a planning application to demonstrate acceptability. The text below paragraph 4.16 identifies those areas that have been identified as requiring significant protection as defined by SPP, these are referred to above under Policy 7.
- 5.7.14 It is noted however that within the Areas of Significant Protection wind farm development may be appropriate in some circumstances, and it must be demonstrated by an applicant that any significant effects on the qualities of these areas can be overcome to the satisfaction of the planning authority.

Landscape Capacity Assessment for Wind Energy in Orkney

- 5.7.15 The Council, in partnership with and jointly funded by Scottish Natural Heritage appointed Ironside Farrar to prepare the Landscape Capacity Assessment for Wind Energy in Orkney’ (LCA) which was published in April 2014 and has been adopted as non-statutory planning policy advice in 2015. The LCA provides detailed guidance on the capacity of the landscape to accommodate wind turbine development and to inform the review of the Development Plan Spatial Frameworks and supplementary guidance. The study specifically assesses landscape and visual sensitivity, landscape value and landscape capacity together with the impact of cumulative wind energy development in order to determine where significant protection from further development may be required.

Development Management Guidance on Energy

- 5.7.16 On 2nd July 2019 the Council approved ‘Development Management Guidance on Energy’ as a material consideration, which was prepared to provide additional clarity to the material factors outlined within the SG Energy document and to assist in the assessment of planning applications. The Guidance was adopted in response to the Council’s declaration of a climate change emergency on 14th May 2019.
- 5.7.17 Section 2 of the document states that, *“Where there will be adverse effects on local-level constraints, such as landscape impacts outwith the National Scenic Area or impacts on sites that are not subject to a national or international level designation, significant weight will be given to any cogent argument that demonstrates that the proposal will have a meaningful positive impact on the factors outlined within Section 1.”*
- 5.7.18 These factors include net economic impact, the scale of contribution towards renewable energy targets and the effects on greenhouse gas emissions.
- 5.7.19 With regards to landscape effects, Section 3 states, *“Therefore, outwith the Hoy and West Mainland National Scenic Area, notwithstanding other constraints, it may be possible for a developer to make a strong argument regarding how the positive effects of the proposal outweigh the identified negative impacts on the landscape.”*
- 5.7.20 The guidance also updates the SG Energy document’s position on tip heights and states that turbines of over 125 metres should be considered and accepts that for the most part, wind energy developments in the future will be of a larger scale with turbines in excess of 125 metres

- 5.7.21 Section 5 notes that recent appeal decisions have placed significant material weight on the contribution of renewable energy projects towards the needs case for the Orkney interconnector. Page 3 of the Guidance states, *“In future, significant material weight will be placed upon any meaningful contributions toward realising this National Development. For the avoidance of doubt, any single energy generation project greater than 10 MW...will be considered to make a meaningful contribution toward the interconnector needs case.”*

5.8 Conclusions

- 5.8.1 This Chapter has set out the legislative background, a summary of the national energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the Proposed Development. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report in order to ensure that it provides the appropriate information for the consideration of the planning application.
- 5.8.2 As noted, the policy appraisal for the Proposed Development is contained in a separate Planning Statement.