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CHARTERED TOWN PLANNERS

Elchies, Moray
Proposed 132 kV Overhead Line

Planning statement

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Contents

1. Introduction and Overview

1.1 Background

1.1.1 Scottish Hydro Electric Transmission plc ('the Applicant') who, operating and known as Scottish and Southern Electricity Networks Transmission ('SSEN Transmission') has submitted an application under Section 37 of the Electricity Act 1989, along with a request that Ministers issue a direction that planning permission be deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997, for consent to construct and operate approximately 24.3 kilometres (km) of new 132 kV trident pole overhead line (OHL) between a new cable sealing end (CSE) structure approximately 450 metres (m) southeast of Rothes III Wind Farm and a new CSE structure approximately 900 m north west of Blackhillock substation, along with ancillary works required to facilitate construction and operation thereof, including access works ('the Proposed Development').

1.1.2 The scope of the application is limited to construction and operation of the OHL and ancillary works for the construction and maintenance of the OHL including, vegetation management including tree felling, temporary OHL diversions, undergrounding of existing infrastructure, formation of bellmouths at public roads access point, construction of new permanent and temporary access tracks and upgrading of existing, tower working areas and other ancillary works related to these core requirements. The Proposed Development would not have a fixed operational life, and as such the consent is sought on a permanent, in perpetuity, basis.

1.1.3 As the Transmission License holder in the North of Scotland, the Applicant has a duty under section 9 of the Electricity Act 1989 to facilitate competition in the generation and supply of electricity. The Applicant is obliged to offer non-discriminatory terms for connection to the Transmission system both for new generation and for new sources of electricity demand.

1.1.4 The primary driver for the Proposed Development is the requirement to connect the consented Rothes III Wind Farm (comprising 28 turbines with approximate capacity of 99 MW) located approximately 4 km west of Rothes in the Moray Council area. The Wind Farm requires connection to the electricity transmission network at Blackhillock Substation by 30th June 2027 in accordance with a connection agreement between SSEN Transmission and Fred Olsen Renewables, as developer of the wind farm.

1.1.5 This Planning Statement outlines the case for approval in land use planning policy terms at the local (Moray) level, and at the national policy level with particular emphasis on the national policy position in support of the delivery of electricity infrastructure that will assist in the delivery of the Government's legally binding 'net zero' commitments.

1.2 Approach

1.1.6 The application is made to the Scottish Ministers under section 37 of the Electricity Act 1989 (the Electricity Act) together with a request that Ministers issue a direction confirming that the development benefits from deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) (the Planning Act). The Planning Authority is a statutory consultee on applications of this nature.

1.1.7 Applications made under Section 37 of The Electricity Act need to have regard to the provisions of Schedule 9 which relates to the preservation of amenity and fisheries. The Development Plan is not the main basis for decision making in applications made under the Electricity Act, but it is likely to be material in informing how the planning authority consider the land use implications of the proposal.

1.1.8 Schedule 9, Sub-paragraph 3(2) of the Electricity Act, requires a licence holder and the Scottish Ministers to have regard to:

"(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of the sub-paragraph."

1.1.9 The matters referred to in Schedule 9 sub-paragraph 3 (1) (a) and (b) of the Electricity Act apply to the Applicant as a license holder: the matters set out in Sub paragraph 3(1)(a) to which regard must be had are:

"…. the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings, and objects of architectural, historic, or archaeological interest; "

Sub Paragraph 3 (1) (b) requires relevant parties to:

"…..do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects"

1.1.10 At sub-paragraph 3(3), the Applicant is [required to…] *"avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters."*

1.1.11 The provisions of Schedule 9 of the Electricity Act set out a number of matters to which regard must be had by the Applicant and Scottish Ministers. The application is accompanied by an Environmental Impact Assessment Report that sets out what regard has been had to the matters outlined in Schedule 9 amongst other things.

The Town & Country Planning (Scotland) Act 1997

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

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

"On granting a consent under section 36 or 37 of the Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Scottish Ministers may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to any conditions (if any) as may be specified in the direction".

1.1.14 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".*

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

1.1.16 The Scottish Ministers will determine the application having regard to the statutory duties in Schedules 8 and 9 of the Electricity Act, and to material considerations. As outlined above, the statutory Development Plan is a material consideration in the determination of applications under Section 37 of the Electricity Act.

1.1.17 Accordingly, the purpose of this Planning Statement is to provide an assessment of the Proposed Development in the context of relevant national and local planning and energy policies and other material considerations.

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

1.1.18 As such it is important to establish:

> What are the relevant national planning and energy policy considerations relevant to the Proposed Development?

> What Development Plan policies are relevant to the proposal that give a local policy context for the consideration of environmental effects arising from the development?

Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017) (EIA Regs)

1.1.19 The Proposed Development constitutes 'Schedule 2' development under the EIA Regulations and the application for section 37 consent is accompanied by an EIA Report.

1.1.20 A Screening Opinion was sought from Scottish Ministers under the EIA Regulations to determine whether the section 37 application for the OHL would constitute 'EIA Development'. The Screening request was submitted in February 2022 and a Screening Opinion was received on 21st July 2022 confirming that a full EIA Report would not be required.

1.1.21 The Applicant recognises that the Proposed Development may give rise to some environmental effects. A voluntary Environmental Appraisal (EA) has been undertaken including a number of environmental studies, the result of which are reported within the EA. Where mitigation measures have been identified to prevent, reduce or offset an effect, these are identified.

1.3 The Development Plan

1.1.22 The Fourth National Planning Framework (NPF4) came into force on 13th February 2023. As a result, the statutory Development Plan covering the Site comprises:

> National Planning Framework 4 (NPF4) (February 2023); and

> The Moray Local Development Plan (adopted July 2020) (MLDP).

1.1.23 The publication of NPF4 has coincided with the implementation of certain parts of the Planning (Scotland) Act 2019 (the 2019 Act). A key provision is that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, then whichever of them is the later in date will prevail. That will include where a LDP is silent on an issue that is now provided for in NPF4.

1.1.24 Section 13 of the 2019 Act amends Section 24 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) to provide that:

"*In the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail*."

1.4 Key Facts

1.1.25 Key facts relevant to this planning application are:

> The Proposed Development is identified in NPF4 as a **National Development under ND3 *Strategic Renewable Electricity Generation and Transmission Infrastructure'*** which recognises that "*the electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity."* The designation of classes of development that qualify as ND3 includes ***"(b) new and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132 kV or more".***

- The Proposed Development is for **new OHL infrastructure in the region enabling increased capacity to connect Rothes III Wind Farm to the wider network and therefore facilitate transmission of renewable energy to the wider GB network.**
- The Proposed Development will forms a **vital element to deliver network and grid infrastructure required to deliver the Government's legally binding targets for net zero emissions and renewable energy electricity generation objectives**.
- The Proposed Development will be delivered in such a way that it is environmentally acceptable and will include a **co-ordinated and scheme environmental protection and enhancements as appropriate to the route.**

1.5 Structure of this Planning Statement

1.1.26 This report seeks to address the pertinent issues relevant to the determination of the application to assist decision makers in their assessment and conclusions on the proposal.

1.1.27 The report is structured as follows:

- **Chapter 2** sets out a summary description of the site and Proposed Development. The siting and design approach is also referenced, with cross references as appropriate to the Design principles for the Proposed Development.
- **Chapter 3** addresses whether the Proposed Development is in accordance with the National Planning Framework 4.
- **Chapter 4** contains the consideration of the Proposed Development against the relevant policies of the Local Development Plan and Supplementary Guidance.
- **Chapter 5** examines relevant material considerations including energy policy matters.
- **Chapter 6** presents overall conclusions.

2. The Development and Routeing

2.1 Summary Route Description

2.1.1 The proposed OHL would commence from a CSE structure approximately 450 m southeast of the Rothes III Wind Farm's on-site substation. From the CSE structure, the OHL would continue to travel to the southeast before turning to travel generally northeast towards the town of Rothes.

2.1.2 The Proposed Alignment would cross the A941 just north of a small picnic area then circle around the northern edge of the settlement of Auchinroaths before travelling southeast past Speyburn Distillery. The Proposed Alignment would then travel generally east, through forestry north of the B9015 passing to the north of the River Spey's prominent northern meander. It would cross the B9015 and travel north-eastward before turning southeast to cross the River Spey by Boat o' Brig. East of Auchroisk Distillery, the Proposed Alignment would curve north before turning to travel southeast. Towards the crossroads at the Mains of Mulben it would turn northeast, crossing the railway. After turning east around the Malcolmburn Bond Warehouses, it would curve in a south-easterly direction then cross the railway again and the A95 between the Glentauchers Distillery and Rosarie.

2.1.3 Approximately 2 km from Keith, the Proposed Development would turn to the southeast towards Blackhillock substation crossing a minor road and the B9014. The Proposed Development would travel across agricultural land, transitioning into UGC approximately 900 m northwest of Blackhillock substation.

2.2 Route Selection & Alternatives

2.2.1 Chapter 2 of the EA provides a detailed description of the routeing process and alternatives. The Applicant has internal procedures on routeing and alignment selection and carries out consultation at each stage. The key stages in the process described in more detail include:

- Design options;
- Approach to routeing and alignment selection;
- Route options process and consultation responses;
- Alignment selection stage process and consultation responses; and
- Other considerations to reduce potential effects.

Design

2.2.2 A trident pole is the preferred technological solution and provides the lower cost solution whilst being suitable to provide the require capacity alongside minimising environmental effects. The use of UGC to connect to the Blackhillock substation was determined as appropriate in order to avoid technical constraints and to minimise conflict with other grid infrastructure.

Routeing and Alignment Selection

2.2.3 Several stages in the routeing and alignment process are taken prior to submission of the preferred proposal for consent. Initially a corridor was identified which encompassed a range of feasible route options between the two connection points. Route selection involves the identification of route options prior to having a preferred route which is then subject to consultation. Route options are identified following desk-based review and site walkovers. Three options were considered in this instance and are described in Chapter 2 of the EA. Two route options (B and C) were considered least preferred due to constraints in relation to

proximity to dwellings, potential impacts on forestry and tree removal and terrain, particularly around Craigellachie. Route A consisted of two sub-options which were also assessed. On balance A1 was preferred as it crossed the Spey Valley for less distance and reduced potential impacts on designated features. It also provided greater opportunities to minimise felling and avoid sensitive habitats.

2.2.4 Alignment selection stage seeks to refine the route subject to an LoD of 100 m. A base alignment is developed via a construction consultant providing specialist technical input and exploring advantages and disadvantages and constructability of various options within the preferred route corridor. Consideration of potential environmental constraints on each alignment is undertaken and options are appraised in order to find the optimal solution. Consultation with stakeholders informs this process. The preferred alignment was consulted upon and the preferred option selected thereafter.

2.3 The Proposed Development

2.3.1 The Proposed Development includes the following works, for which Section 37 consent and deemed planning permission is sought:

- Installation and operation of approximately 24.3 km of new 132 kV trident pole (H pole) OHL between a new Cable Sealing End (CSE) structure approximately 450 m to the southeast of Rothes III Wind Farm and a new CSE structure approximately 900 m northwest of Blackhillock Substation; and,
- Ancillary works required to facilitate the construction and operation of the Proposed Development including tree felling and vegetation clearance, temporary measures to protect road and water crossings, upgrades to existing access tracks and existing access points, new permanent and temporary access routes (i.e., Trackway, where required), permanent stone hardstanding areas related to the cable sealing end structure and associated working areas around infrastructure to facilitate construction.

2.3.2 The Proposed Development would also include the following works, which fall under the Applicant's permitted development rights:

- Approximately 450 m of underground cabling (UGC) between the Rothes III Wind Farm on-site substation and a new CSE structure to the southeast; and
- Approximately 1.1 km of UGC between the new CSE structure which would be situated approximately 900 m northwest of Blackhillock substation, and Blackhillock substation itself.

Indicative Design Summary

2.3.3 The proposed design solution utilises **Trident H poles** which are based on a trident design requiring a matching pair of either wood or steel poles erected 2.5 m apart with supporting crossarm steelwork linking the poles at the top. The proposed poles would be up to approximately 16 m in height, dependent on ground conditions and topography.

2.3.4 Three conductors in horizontal formation and made from aluminium alloy would be strung between each H pole forming a single circuit. The spacing between poles would vary depending on topography and altitude and would be determined after a detailed line survey, however it is expected that they will be approximately 80 to 100 m apart.

2.3.5 **CSE structures** are required to facilitate the transitions from UGC to OHL and vice versa. Two CSE's are proposed. The sealing end structures would accommodate the sealing end equipment and downleads mounted on trident poles. Cables would emerge from below ground and would be affixed to the structure. Cables will be enclosed in protective boxing and anti-climb measures would be installed on the structure for safety.

2.3.6 **UGC works**, which fall under permitted development rights would be installed though open cut trench techniques. One joint bay will be required on the longer cable section into Blackhillock Substation and the location of this will be confirmed at detailed design stage. The joint bay will comprise an underground concrete lined structure approximately 9 m in length, 3.5 m wide and 2 m deep. An above ground link pillar would also be required within 10 m of the joint bay, protected by stock proof fencing.

Limit of Deviation

2.3.7 A Limit of Deviation (LoD) to define the maximum extent within which a development can be built is proposed.

2.3.8 A 100 m LoD (i.e., 50 m either side of the proposed OHL alignment) is sought to allow for micro siting during construction. A 30 m LoD is sought for the construction of new access tracks.

2.3.9 An operation corridor is required through areas of woodland and commercial forestry to ensure the safe operation of the OHL. It is anticipated that the width of the operational corrido would be 36 m either side of the OHL. Therefore, in areas of woodland or commercial forestry, an extension to the OHL LoD may be required for felling operations. Similarly, for any sections of new tracks a 10 m corridor is required either side of the track and 15 m is required for bellmouths. As such, an extension may be required around new access track LoDs in areas of commercial forestry or woodland for felling operations, where these are situation outwith the OHL LoD.

Construction Programme and Hours

2.3.10 It is anticipated that construction period of the Proposed Development would by 22 months. Key tasks in that period include:

> Phase 1 - enabling works;

> Phase 2 – construction works;

> Phase 3 – commissioning; and

> Phase 4 – re-instatement.

2.3.11 A more detailed description of works associate with each phase is provided in Chapter 3 of the EA Report.

2.3.12 Construction Environmental Management Plans (CEMP), General Environmental Management Plans (GEMPS) and Species Protection Plans (SPPs) have been developed by the Applicant and would be adhered to throughout the construction process.

2.3.13 Construction activities would generally be undertaken during daytime periods only with work between approximately 07.00 to 19.00 in the summer and 07.30 to 17.00 (or as daylight allows) in the winter, seven days a week. Any variation to working hours would be agreed in advance with Moray Council.

Decommissioning

2.3.14 The consent of the Rothes III Wind Farm is 35 years. The operational life of the infrastructure proposed is 40 years. If the Proposed Development were to be decommissioned all components of the OHL would be removed from site and either recycled or disposed of appropriately. A method statement for decommissioning would be agreed with Moray Council.

2.3.15 The consent is applied for in perpetuity.

3. Appraisal against NPF4

3.1 How NPF4 is to be used

3.1.1 NPF4 came into force and became part of the statutory Development Plan on 13th February 2023. Whilst section 37 applications do require to comply with section 25 of the Planning Act National planning policy is a very important consideration: amongst other matters it sets the framework of development management factors.

3.1.2 Annex A (page 94) of the document explains how NPF4 is to be used. It states:

3.1.3 "*The purpose of planning is to manage the development and use of land in the long-term public interest … Scotland in 2045 will be different. We must embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, reduce inequalities, build a wellbeing economy and create great places*."

3.1.4 Annex A states that NPF4 is required by law to set out the Scottish Ministers' policies and proposals for the development and use of land. It adds:

"*It plays a key role in supporting the delivery of Scotland's national outcomes and the United Nations Sustainable Development Goals[2]. NPF4 includes a long-term spatial strategy to 2045*."

3.1.5 NPF4 contains a Spatial Strategy and Scottish Government development management policies to be applied in all consenting decisions, and it identifies national developments which are aligned to the strategic themes of the Government's Infrastructure Investment Plan3 (IIP).

3.1.6 NPF4 therefore for the first time, introduces centralised development management policies which are to be applied Scotland-wide. It also provides guidance to Planning Authorities with regard to the content and preparation of LDPs.

3.2 The National Spatial Strategy – Delivery of Sustainable Places

3.2.1 Part 1 of NPF4 sets out the Spatial Strategy for Scotland to 2045 based on six spatial principles which are to influence all plans and decisions. The introductory text to the Spatial Strategy starts by stating (page 3):

3.2.2 "*The world is facing unprecedented challenges. The global climate emergency means that we need to reduce greenhouse gas emissions and adapt to the future impacts of climate change*."

3.2.3 The principles are stated as playing a key role in delivering the United Nations Sustainable Development Goals and the Scottish Government's National Performance Framework[4].

3.2.4 The Spatial Strategy is aimed at supporting the delivery of:

> 'Sustainable Places': "where we reduce emissions, restore and better connect biodiversity";

[2] The 17 UN Sustainable Development Goals are set out at page 95 of NPF4 and include *inter alia* 'affordable and clean energy' and 'climate action'.

[3] The Scottish Government's five-year Infrastructure Investment Plan (2021-22 to 2025-26) was published in February 2021. It set out a vision for Scotland's future infrastructure in order to support and enable an inclusive net zero emissions economy.

[4] The Scottish Government National Performance Framework sets out 'National Outcomes' and measures progress against a range of economic, social and environmental 'National Indicators'.

> 'Liveable Places': "where we can all live better, healthier lives"; and

> 'Productive places': "where we have a greener, fairer and more inclusive wellbeing economy".

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

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

3.2.7 The new Energy Strategy and Just Transition Plan for Scotland (as referenced in NPF4) was published as a consultative draft on 10 January 2023 (see below).

3.2.8 The National Spatial Strategy in relation to 'sustainable places' is described (page 7) as follows:

"*Scotland's future places will be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring our environment.*

Meeting our climate ambition will require a rapid transformation across all sectors of our economy and society. This means ensuring the right development happens in the right place.

Every decision on our future development must contribute to making Scotland a more sustainable place. We will encourage low and zero carbon design and energy efficiency, development that is accessible by sustainable travel, and expansion of renewable energy generation."

3.2.9 Six National Developments (NDs) support the delivery of sustainable places, one (ND3) being 'Strategic Renewable Electricity Generation and Transmission Infrastructure'.

3.2.10 A summary description of ND3 is provided at page 7 of NPF4 as follows:

"*Supports electricity generation and associated grid infrastructure throughout Scotland, providing employment and opportunities for community benefit, helping to reduce emissions and improve security of supply*".

3.2.11 Page 8 of NPF4 sets out 'Cross-cutting Outcome and Policy Links' with regard to reducing greenhouse gas emissions. It states:

"*The global climate emergency and the nature crisis have formed the foundations for the spatial strategy as a whole. The regional priorities share opportunities and challenges for reducing emissions and adapting to the long-term impacts of climate change, in a way which protects and enhances our natural environment*."

3.2.12 A key point in this statement is that the climate emergency and nature crisis are expressly stated as forming the foundations of the national spatial strategy. Recognising that tackling climate change and the nature crisis is an overriding imperative which is key to the outcomes of almost all policies within NPF4.

3.3 National Developments

Overview

3.3.1 Page 97 of NPF4 sets out that 18 National Developments have been identified. These are described as:

"*significant developments of national importance that will help to deliver the spatial strategy … National development status does not grant planning permission for the development and all relevant consents are required*".

3.3.2 It adds that:

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

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

3.3.3 Page 103 of NPF4 describes ND3 and it states:

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

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

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

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

"*Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas*."

3.3.5 Reference is made to the designation and classes of development which would qualify as ND3, and it states in this regard:

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

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

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

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

3.3.6 The Proposed Development consists of a proposal for an OHL of 132 kV and subsection (b) is therefore applicable and it has National Development status.

3.3.7 The Proposed Development would enable renewable generation which would make a valuable contribution to targets within the key timescale of by 2030 and that is a very important consideration. There is recognition that to meet this requirement and make progress, there will be a need for wind farms of 'scale'[5] and Rothes III is a large-scale (99 MW) development. This links to the express acknowledgement in NPF4 Policy 11 (see below) that some significant effects are inevitable.

3.4 National Planning Policy

3.4.1 Part 2 of NPF4 (page 36) addresses national planning policy by topic with reference to three themes formulated with the aim of delivering sustainable, liveable and productive places.

3.4.2 Page 98 of NPF4 states that with regard to LDPs, the focus should be on land allocation through the spatial strategy and interpreting national policy in a local context. It states:

"*There is no need for LDPs to replicate policies within NPF4, but authorities can add further detail including local specific policies should they consider to be a need to do so, based on the area's individual characteristics*".

3.4.3 In terms of planning, development management and the application of the national level policies, NPF4 states:

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

3.4.4 In terms of "sustainable places" relevant policies to the proposed development include the following:

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

3.4.5 The Chief Planner's Letter of 8th February 2023 provides advice in relation to applying NPF4 policy. It states that the application of planning judgement to the circumstances of an individual situation remains essential for all decision making, informed by principles of proportionality and reasonableness. It states:

"*It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement*."

[5] The NPF4 Statement of Need for National Developments states that additional electricity generation "of scale" is fundamental to chieving a net zero economy (NPF4, page 103).

3.4.6 The Letter adds:

"*It is recognised that it may take some time for planning authorities and stakeholders to get to grips with the NPF4 policies, and in particular the interface with individual LDP policies. As outlined above, in the event of any incompatibility between the provision of NPF and the provision of an LDP, whichever of them is the later in date is to prevail. Provisions that are contradictory or in conflict would be likely to be considered incompatible*".

3.5 NPF4 Policy 1: Tackling the Climate and Nature Crisis

3.5.1 The intent of Policy 1 is "to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis".

3.5.2 **Policy 1** directs decision makers that "when considering all development proposals significant weight will be given to the global climate and nature crises."

3.5.3 This is a radical departure from the usual approach to policy and weight and clearly denotes a step change in planning policy response to climate change. The matter of weight is no longer left entirely to the discretion of the decision maker.

3.5.4 The Chief Planner's Letter of 8th February 2023 gives some guidance with regard to Policy 1. It states that the policy should be applied together with the other policies in NPF4 and that:

"It will be for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to the climate and nature crisis".

3.5.5 It is considered that given the nature of the Proposed Development and its specific contribution to delivering grid connection to a 99 MW wind farm it should be afforded significant weight in terms of tackling the climate and indeed the nature crisis.

3.6 NPF4 Policy 11: Energy

3.6.1 For the consideration of electricity grid reinforcement proposals, Policy 11 'Energy' (page 53) is the lead policy. Policy 11's intent is set out as:

3.6.2 "*to encourage, promote, and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low carbon and zero emission technologies including hydrogen and carbon capture utilisation and storage.*"

3.6.3 Policy Outcomes are identified as: "expansion of renewable, low carbon and zero emission technologies".

3.6.4 The policy wording is set out below:

"a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:

- *i. wind farms including repowering, extending, expanding and extending the life of existing wind farms;*
- *ii. enabling works, such as grid transmission and distribution infrastructure;*
- *iii. energy storage, such as battery storage and pumped storage hydro;*
- *iv. small scale renewable energy generation technology;*
- *v. solar arrays;*
- *vi. proposals associated with negative emissions technologies and carbon capture; and*

- *vii. proposals including co-location of these technologies.*

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

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

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

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

- *i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;*
- *ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable;*
- *iii. public access, including impact on long distance walking and cycling routes and scenic routes;*
- *iv. impacts on aviation and defence interests including seismological recording;*
- *v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*
- *vi. impacts on road traffic and on adjacent trunk roads, including during construction;*
- *vii. impacts on historic environment;*
- *viii. effects on hydrology, the water environment and flood risk;*
- *ix. biodiversity including impacts on birds;*
- *x. impacts on trees, woods, and forests;*
- *xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;*
- *xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and*
- *xiii. cumulative impacts.*

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

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

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

3.6.5 The intent and desired outcome of the policy is expressly clear – the expansion of renewable energy, through encouragement, promotion and facilitation of grid infrastructure which the proposed development, as a nationally important development would help further.

3.6.6 The wording of **Policy 11 Paragraph (a)(ii**) makes it clear that the policy directly supports new grid transmission and distribution infrastructure. This is corroborated by the statement of need of ND3 as detailed above.

3.6.7 **Policy 11 Paragraph (b)** is not relevant to the consideration of the Proposed Development as the project is not for a wind farm.

3.6.8 **Policy 11 Paragraph c)** states that proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

3.6.9 In terms of employment opportunities, Chapter 1 of the EA states that: "Employment of construction staff will be the responsibility of the Principal Contractor, but SSEN Transmission encourages the Principal Contractor to make use of suitable labour and resources from areas local to the location of the works". In a wider context, the Project will facilitate the transmission of energy generated from renewable energy developments and therefore make an additional indirect contribution to the local economy.

3.6.10 **Policy 11 Paragraph d)** states that development proposals that impact on international and national designations "*will be assessed in relation to Policy* 4". An assessment of environmental impacts is provided within the EA Report however no impacts on national or international designations are identified for the Proposed Development.

3.6.11 **Policy 11 Paragraph e)** states that project and design and mitigation *"will demonstrate how"* impacts are addressed. These are listed in the quotation of the policy above. An EA Report has been provided in support of the application which provides and assessment of each of these issues in more detail. The EA Report provides a clear description of where mitigation has been utilised to minimise effect through both embedded mitigation via design and additional mitigation to ensure residual effects are not significant. This demonstrates that there are no issues arising with regard to the various considerations listed other than the loss of LEPO (category 2b) Ancient Woodland Inventory. This issue is addressed further in a more detailed examination of the Proposed Development against Policy 6.

3.6.12 A summary relevant to the key criteria listed in Policy 11 (e) is provided below:

Amenity (noise)

1.1.28 Criterion e) (i) of Policy 11 states that impacts on communities and individual dwellings including as relevant in this instance, noise, should be addressed within submission. There are no direct impacts on communities or individual dwellings identified given the location and alignment proposed. The potential noise matters arising from the construction of the Proposed Development will be managed via best practise as prescribed within the CEMP and are not considered to give rise to an effect such that a specific assessment was required to support the submission. Visual impact and effect on amenity is addressed within the landscape and visual section of the EA Report and summarised in regard to criteria e)(iii) below.

Landscape and visual

3.6.13 Criterion e) (ii) of Policy 11 states that significant landscape and visual impacts should be assessed and addressed within proposals and provides that where impacts are localised and / or appropriate design mitigation has been applied, they will generally be considered to be acceptable.

3.6.14 Chapter 4 of the EA Report addresses landscape and visual matters. In summary the Proposed Development is situated in a wooded undulating area where existing OHLs and other built features are already present in the landscape. It is concluded that the Proposed

Development could be accommodated with no significant effects on landscape character. Some significant short-term visual effects are identified from four of thirty-five building-based receptors located in close proximity, during construction, there would be no long-term effects from these receptors. No other significant visual effects are predicted, and the proposal is considered consistent with the provisions of Policy 11.

3.6.15 There are no nationally designated or protected landscapes within the study area. Within a regional context the Spey Valley Landscape Area (SLA) overlaps with the middle section of the study areas. SLA is a non-statutory designation applied through the development plan to landscapes identified as being of regional or local importance. No significant adverse effects on this designation are predicted.

3.6.16 Principle mitigation measures have been embedded in the design process and relate to the identification of a preferred route, alignment, and technology to reduce, as far as possible, adverse landscape and visual effects. Landscape and visual mitigation in relation to the construction and reinstatement of disturbed ground associated with the Proposed Development will be managed through good practice as set out in the CEMP. This relates to the successful landscape reinstatement of areas disturbed during construction including compounds, working areas and temporary access routes. Key measures include the creation of smooth gradients to tie into adjacent undisturbed areas and the use of best practice techniques for the handling and reinstatement of soil. Minimisation of tree felling near receptor locations as far as practicable is also proposed to mitigate potential for adverse effects.

3.6.17 The proposals are consistent with assessment requirements as set out criteria e) (iii)of Policy 11 and confirms that there are no effects of significance such that the Proposed Development can not be considered acceptable in landscape and visual terms.

Roads & Traffic

3.6.18 **Criterion e) (vi) of Policy 11** relates to impacts on road traffic and on adjacent trunk roads, including during construction. A transport assessment has been prepared to support the Proposed Development and is contained in Appendix 3.3 of the EA Report. It is recognised that the Proposed Development will create additional traffic on the local and trunk road network. The presence of slow-moving construction plant on the road network may cause short-term congestion, however the impacts are assessed as temporary, short-term and minor.

3.6.19 In order to address potential impacts from construction traffic, the Principal Contractor will be required to prepare a Construction Traffic Management Plan (CTMP) which would include a range of mitigation measures to ensure free flow of traffic, restrict abnormal load movements outwith peak hours, ensure the use of appropriate signage, etc.

3.6.20 The assessment is consistent with the requirements of Policy 11 and no significant adverse effects are predicted.

Historic Environment

3.6.21 **Criterion e) (vii) of Policy 11** seeks clarification on the design and mitigation proposed to address potential impacts on the historic environment. An assessment of effects of the Proposed Development on cultural heritage and archaeology has been undertaken and is reported in Chapter 8 of the EA Report.

3.6.22 Two listed buildings lie within the Inner Study Area, and no other designated assets are located within this area. Further assets are located within the Outer study area including listed buildings and scheduled monuments. The potential for construction works to result in direct effects on heritage assets within the Inner Study Area has been identified. In addition, some further assets are known to lie within the micrositing allowance for poles or access routes. Importantly however, mitigation measures have been set out which would avoid or reduce the predicted effects, and as such, no significant effects are predicted.

3.6.23 The assessment of effects on these assets results in the identification of a low magnitude effect on the setting of one Scheduled Monument (Church of Dundurcas) and a negligible effect on the setting of a second (Rothes Castle) or the duration of the operational phase of the Proposed Development. The predicted effects would not adversely affect the cultural significance of either Monument.

3.6.24 Mitigation measures are proposed to ensure effects are minimised the scope of works would be detailed in Written Scheme(s) of Investigation (WSI), key mitigation measures proposed include:

- Preservation in situ;
- Micrositing;
- Watching Briefs;
- Post-excavation Assessment and Reporting; and,
- Construction Guidelines.

3.6.25 No designated assets are affected by the Proposed Development and appropriate mitigation by design and secondary mitigation are proposed to provide a further level of protection to known and unknown assets. The Proposed Development is therefore considered consistent with the provisions of Policy 11 in regard to the Historic Environment.

Hydrology, Hydrogeology & Flooding

3.6.26 **Criterion e) (viii) of Policy 11** seeks assurances on the effects on hydrology, the water environment and flood risk. Chapter 7 of the EA Report provides an assessment of the Proposed Development in this regard. The assessment describes the results of a programme of site works competed to verify desktop studies. This included peat probing and characterising assessment, and visits to private and licensed water supply sources within the Study Area. Mitigation included in the design of the Proposed Development (embedded mitigation) is detailed and potential effects are assessed such that it is determined that subject to mitigation and use of best practise, no significant effects are likely on geology and the water environment.

3.6.27 Discreet areas of peat are noted within the western extend and centre of the study area. Peat landslide hazard risk has been assessed notwithstanding that the potential risk is deemed to be minimal due to the limited extent of peat proven along the alignment. The majority of the Proposed Development is assessed as negligible to low peat slide risk, with an increase to low to medium in areas of steeper slopes and Class 1 peatland. These are not considered to pose significant risk as it can be mitigated as part of the detailed design. The requirement to manage peat will be minimal due to the limited extent present and no areas of extensive deep peat are identified. As such, a detailed peat management plan is not required. Where peat is excavated locally it will be managed using the CEMP which sets out procedures and method statements as appropriate.

3.6.28 Best practice construction techniques that would safeguard geology and the water environment and which are incorporated into the detailed design of the works have been identified such that no adverse significant effects are precited.

3.6.29 The Applicant has proposed appropriate design, mitigation and restoration for peatland and carbon rich soil matters and the approach and effects are considered wholly acceptable and consistent with Policy 11.

Biodiversity

3.6.30 **Criterion e) (ix) of Policy 11** relate to biodiversity including impacts on birds. Chapters 5 and 5 of the EA address ecology and ornithology and document the assessments undertaken

of the potential effects of the Proposed Development on valued ecological receptors and wider biodiversity concerns.

3.6.31 One site designated for nature conservation, The River Spey SAC and SSSI is located in close proximity to the Proposed Development. Habitats identified during the assessment were those of regional to Less than Local ecological value, including those identified as potential Groundwater Dependent Terrestrial Ecosystems (GWDTE). Protected species signs found during surveys included those of badger, otter, pine marten, red squirrel, otter and structures with the potential to support roosting bats.

3.6.32 Three sites designated for nature conservation, with noted ornithological interest, have been identified within 10 km of the Proposed Development. Surveys for breeding birds identified Osprey breeding within proximity of the Proposed Development. A single crossbill breeding territory located within forestry near the location for the Rothes III Wind Farm on-site substation were identified. No significant effects (pre-mitigation) were identified in assessments. Good practise measures are however proposed to further avoid and reduce effects.

3.6.33 Mitigation measures are embedded into the design and include the Applicant's General Environmental Management Plan (GEMP) and Species Protection Plans (SPPs). A site-specific CEMP and appointment of an experienced Environmental Clerk of Works (ECoW) are further commitments designed to reduce risk and effects. With these measures in place, the assessments as presented in Chapters 5 and 6 of the EA Report, conclude that there will be no likely significant effects on valued ecological or ornithological receptors within proximity of the Proposed Development.

3.6.34 Areas of habitat loss will be limited to felling of woodland areas required to facilitate construction access and to create the operational wayleave for the OHL. Temporary disturbance of habitats during construction to install poles will be minimised by adherence to the site-specific CEMP, which will include detailed methods of soil management and reinstatement. Construction is estimated to result in a 6% loss in biodiversity and a 31% loss in linear biodiversity.

3.6.35 Compensation for the permanent loss of habitat due to the Proposed Development has been implemented through the use of the Applicant's Biodiversity Net Gain metric which will lead to the implementation of a number of measures including the establishment of scrub habitat within the felling corridor for the OHL wayleave, the creation of native species hedgerows along new track edges and creation of new woodland in a suitable location offsite to offset the loss of woodland lost through felling. On this basis it is considered likely that no net loss can be achieved for the Proposed Development. It is considered that this, and any further biodiversity enhancement can could be achieved subject to an appropriately worded condition to agree approach and degree of enhancement relative to effect at that time.

3.6.36 The assessments and findings thereof in regard to biodiversity are consistent with the provisions of criteria e) (ix) of Policy 11 and there are no significant adverse effects of the Proposed Development predicted in this regard.

Trees, woods, and forests

3.6.37 **Criterion e)(x) of Policy 11** pertains to impacts on trees, woods, and forests. Desk based assessment and walkover field surveys have been carried out to assess the effects of construction and operation.

3.6.38 Detailed surveys and analysis of the woodland to be felled have been undertaken and results are reported in Chapter 9 of the EA Report.

3.6.39 The design of the Proposed Development has sought to avoid the requirement for felling and mitigation measures such as further micrositing within sensitive areas, could potentially increase tree retention, depending on the structure profile, terrain, and tree species. Further

mitigation measures including reducing tree felling to crown reduction only, could assist mitigation significant effects and tree loss also.

3.6.40 The assessment has concluded that the removal of native woodland in terms of the forestry assessment would result in a moderate adverse, long term and significant effect. The Applicant is committed to making arrangements to plant off-site an equivalent area of woodland as Compensatory planting meeting the Scottish Government objective of no net loss of woodland. The assessments undertaken are consistent with Policy 11. Given the loss of AWI, Policy 6 of NPF4 is applicable.

3.6.41 The potential impact on individual landowners in terms of their Long Term Forest Plans (LTFP) is assessed a high magnitude, however mitigation via a commitment to assist in amending the LTFPs is deemed sufficient to reduce residual effects on forest management to not significant.

Cumulative impacts

3.6.42 **Criterion e) (xiii) of Policy 11** require the consideration of the cumulative effects of development. The assessment of cumulative impacts is provided in each EA Report chapter and concludes no predicted significant adverse effects.

Other Matters

3.6.43 The other criteria listed in Policy 11 (iii, iv, xi and xii) covering public access, aviation, decommissioning, and site restoration are scoped out of the EA Report and pertain to wind farm proposals rather than grid transmission infrastructure. No contravention of the purposes of these criteria arises as a result of the Proposed Development.

Balancing the Contribution of Development and Conclusions on Policy 11

3.6.44 The Proposed Development is therefore considered to be acceptable in relation to all of Policy 11's criteria.

3.6.45 The penultimate paragraph **of Criterion e) of Policy 11** is expressly clear that in considering any identified impacts of developments, that significant weight must be placed on the contribution of the proposal to renewable energy generation targets and greenhouse gas emissions reduction targets.

3.6.46 The "contributions" are inextricably related to the scale of the proposed development and policy recognises that any identified impacts must be assessed in the context of these contributions.

3.6.47 In terms of contribution to targets, as a national development, the primary driver for the Proposed Development arises from a specific wind farm connection commitment. Other benefits arising from the delivery of new infrastructure relate to enhanced security of supply and efficiencies in new infrastructure and equipment.

3.6.48 The Proposed Development facilitates renewable connections and transmission and is of national importance.

3.7 NPF4 Policy 3: Biodiversity

3.7.1 **Policy 3** requires developments to, wherever feasible, provide nature-based solutions that have been integrated and made best use of, and for, significant biodiversity enhancements to be provided.

3.7.2 It should be noted that Policy 3 does not provide any guidance on how 'significant enhancements' will be measured and assessed, simply referring to "*best practice assessment methods*". In addition, in relation to the relevant wording in Policy 3, the Explanatory Report (as noted, issued alongside Revised Draft NPF4) states:

"*The Scottish Government have commissioned research to explore options for developing a biodiversity metric or other tool, specifically for use in Scotland. This work is at early stages, we will work with NatureScot on a programme of engagement with stakeholders as this work progresses*.

3.7.3 Therefore, exactly how enhancement is to be measured in the longer-term is to be the subject of further guidance, but timescale for the production of this is at present unclear The Scottish Government also issued a draft Biodiversity Strategy in December 2022 however it does not contain national biodiversity targets – these are to be prepared on a statutory basis later in 2023 and will be subject to a Bill in Parliament.

3.7.4 The Chief Planner's Letter of 8th February 2023 provides some further guidance with regard to Policy 3. It confirms that there is no single accepted methodology for calculating and/or measuring biodiversity enhancement and it reiterates that research has been commissioned to explore options for developing a biodiversity metric or other tool for use in Scotland. It adds that there will be some proposals which will not give rise to opportunities to contribute to the enhancement of biodiversity "*and it will be for the decision maker to take into account the policies in NPF4 as a whole, together with material considerations in each case*".

3.7.5 An EA Report has been submitted which identifies that no significant adverse effects on habitats or nature networks are predicted as a result of the construction or operation of the Proposed Development.

3.7.6 The Applicant recognises the significant environmental interaction that arise through the activities they undertake in Scotland. With this work comes a responsibility to design and build projects in a manner which accounts for impacts on biodiversity. As a result, the Applicant has a commitment to designing biodiversity enhancements in all projects so that they leave the natural environment in a demonstrable better state than before development started. The aim is to reduce biodiversity loss, protect the vital ecosystem services provided, consider all opportunities for habitat restoration, and strengthen natural ecosystem reliance.

3.7.7 The Applicant is working towards halting the trend of habitat decline and degradation and is developing mechanisms to transform how they develop infrastructure in a way that produces tangibly positive impacts for biodiversity.

3.7.8 It is also important to keep in mind that the greatest threat to biodiversity is climate change. The principal and essential benefit of the Proposed Development is a significant contribution of renewable energy captured to the grid via the delivery of an essential new direct connection for Rothes III Wind Farm. Extending the OHL network to connect this project is critical to facilitate the earliest possible decarbonisation of the energy system and the achievement of 'net zero' no later than 2045, in accordance with the objectives of the Climate Change (Scotland) Act 2009. The purpose of net zero is to protect biodiversity and the earlier it can be achieved the greater the benefits to biodiversity.

3.7.9 For this project the removal of LEPO (category 2b) AWI and hedgerows and associated habitats result in biodiversity losses as detailed above, however the project is aiming for no net loss through mitigation and targets further enhancement over the course of project delivery. More detailed information on the proposed biodiversity enhancement strategy for this project will be specified in a separate document to follow. It is proposed that a suitably worded condition can manage the detail and delivery of agreed approaches appropriately. The Proposed Development is considered to be consistent with the provisions of Policy 3 at this time.

3.8 NPF4 Policy 4: Natural Places

3.8.1 Policy 4 deals with national and local landscape designations.

Policy 4 Paragraph a) states that proposals which *"have an unacceptable impact on the natural environment will not be supported.*

Paragraph c) *provides: Where significant adverse effects arise on nationally important designations they must be clearly outweighed by social, environmental or economic benefits of national importance*".

Paragraph d) states: "*Development proposals that affect a site designated as …a local landscape area in the LDP will only be supported where:*

- *Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or*
- *Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance*".

3.8.2 Policy 4 provides that the precautionary principle will be applied and states that where adverse effects on species protected by legislation occur, proposals will only be supported where they meet the relevant statutory tests.

3.8.3 No designated sites are located within the site and no adverse effects on adjacent nationally or internationally designated sites are identified.

3.8.4 As such, no significant adverse effects on national or local designations arise as a result of the Proposed Development. The proposals are considered to be in accordance with Policy 4.

3.9 NPF4 Policy 5: Soils

3.9.1 In terms of soils, **Policy 5** states that where development on peatland or carbon rich soils or priority peatland habitat is proposed, a detailed site-specific assessment is required to identify baseline, likely effects and net effects.

3.9.2 The policy intent is to protect carbon rich soils, restore peatlands and minimise disturbance to soils from development. This is very similar to the policy position previously referenced in the now superseded Scottish Planning Policy (SPP); however, a key difference is that essential infrastructure is one of the types of development expressly stated as being acceptable in principle on peatlands (Paragraph c (i)). The delivery of grid transmission network infrastructure is essential infrastructure in this regard in terms of its requirement to facilitate renewable energy proposals.

3.9.3 A site-specific assessment has been carried out and confirms that the likely effects on carbon rich soils / priority peatland are not significant. A Peat Management Plan (PMP) is not required. The CEMP will provide site-specific detailed guidance on the treatment of excavated peat and will set out how it will be sensitively handled and stored on-site to allow for effective re-use and that micro-siting will be used to avoid areas of deeper peat where possible.

3.9.4 The Proposed Development is considered to be in accordance with NPF4 Policy 5.

3.10 NPF4 Policy 6: Forestry, Woodland, and Trees

3.10.1 Policy 6 seeks to protect and expand forests, woodlands and trees ensuring that existing woodland and trees are protected, and cover is expanded, and seeks to ensure that woodland and trees on development sites are sustainably managed. The Policy supports proposals that enhance and expand or improve woodland and tree cover and will not support proposals where they result in the loss of ancient woodland, or have an adverse impact on their ecological condition, or where adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value will occur. Fragmentation or severing woodland habitats, unless mitigated, will not be supported.

3.10.2 Paragraph b) (i) provides that Development proposals will not be supported where they will result in *"any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition".*

3.10.3 Paragraph c) states more generally that where woodland removal is required it: *"will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered."*

3.10.4 It is important to note that the AWI is a provisional guide to the location of ancient woodland and contains 3 categories. Only Categories 1a and 2a are officially named as 'Ancient Woodland'. Embedded mitigation by design has ensured that no woodland of this categorisation is lost as a result of the Proposed Development.

3.10.5 The design of the Proposed Development has sought to minimise the need for felling whilst taking account of other environmental and technical considerations, and further potential benefits could further arise in the detailed design and delivery via micrositing. An operational corridor (OC) of 72 m has been identified within woodland areas to enable construction. Direct impacts on forestry arise as a result of the removal of 54.67 ha of woodland, of which 18.99 ha would be classified as Long-Established Plantation Origin (LEPO) (category 2b) in the Ancient Woodland Inventory (AWI). Further, the creation of the OC would result in wider potential indirect effects on the surrounding woodland areas due to potential increased risk of damage (windthrow) and it is estimated that an additional 22.8 ha will be affected, of this 3.26 ha is LEPO (category 2b) AWI would be removed as a result of management felling to avoid the risk of windthrow.

3.10.6 Surveys of the LEPO (category 2b) forestry have been undertaken and have determined that 13.06 ha is in reality productive conifer plantation and the remaining broadleaved sections have been found to have been planted between 1901 and between 1930-1937. No higher valued Ancient Woodland (category 1a and 2a) or LEPO (category 1b) would be felled.

3.10.7 The removal of native woodland has been assessed as moderate adverse, long term and significant. Commitments to off-site compensatory planting (of equivalent area) are proposed and details are provided in Appendix 9.2 of the EA Report. The proposals meet the Scottish Government's 'Control of Woodland Removal Policy (CoWRP) objective of no net loss of woodland.

3.10.8 It is recognised that the Proposed Development has a potential conflict with the provisions of paragraph b)(i) of Policy 6 in so much as the removal of areas categorised as AWI is proposed (in light of Policy 6 not referring to AWI categorisation). It is important to recognise the minimisation of this effect through detailed routeing and design and the delivery of compensation thereof. The detailed analysis of the woodland area in question is material in so much as it demonstrates the area of categorised woodland to encompass extensive conifer plantation and efforts to focus felling away from recognised ancient trees and higher category AWI have been achieved, and are ongoing, by way of detailed design.

3.11 NPF4 Policy 7: Historic Assets and Places

3.11.1 In terms of Historic Assets and Places, Policy 7 seeks to protect assets to enable positive change as a catalyst for regeneration of places. Proposals which have potential significant impacts must be accompanied by an assessment and clearly identify their impact and provide a sound basis for managing the impact of change. Development which affects scheduled monuments will only be supported where direct impacts and significant adverse impact on integrity of setting are avoided, or where exceptional circumstances have been demonstrated and effects have been shown to be minimised.

3.11.2 An assessment of potential effects on cultural heritage assets has been completed and no significant impacts are predicted as a result of the Proposed Development on historic assets or places, and as such proposals are in accordance with NPF4 Policy 7.

3.12 Conclusions on NPF4 Appraisal

3.12.1 The assessment demonstrates how environmental interests have been considered in terms of design mitigation, embedded within the design and siting approach for the Proposed Development. Delivery of this key strategic electricity infrastructure project is to connect a specific consented 99 MW Wind Farm and is identified within NPF4 as 'national development'.

3.12.2 The Proposed Development is considered to be accordance with the relevant policies of NPF4 when read as a whole. Significant weight is afforded in relation to Policy 1 in terms of tackling the climate and nature crisis, the Chief Planners letter dated 8th February 2023 provides clarity in this regard and directs that priority should be given in all decisions to proposals which seek to address the climate and nature crises, and provides that "*it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour of, or against a proposal based on the basis of its positive or negative contribution to the climate and nature crises".*

3.12.3 Policy 11 is the lead policy for the Proposed Development and it has been demonstrated that the criteria in Policy 11 Paragraph (e) have been addressed satisfactorily. The effects of the development need to be considered in the context of the benefits it would give rise to, which Policy 11 states need to be afforded significant weight in the determination process.

3.12.4 In this case the project seeks to deliver necessary overhead line infrastructure to facilitate a committed and renewable generation connection and ensure security of supply. In doing so, every effort has been made to ensure the environmental impact of development is minimised and where possible, in tandem, the development seeks to ensure nature benefits and enhancements are achieved. The loss of some AWI trees (categorised as LEPO category 2b, and not the more important Category 1a or 1b AWI, falls contrary to part of Policy 6, however the consideration of the more detailed analysis of the woodland in question, and the proposed compensation and potential for further mitigation and reduction in the predicted loss of protected woodland is material.

3.12.5 Furthermore, the Chief Planners letter (8th February 2023) provides important guidance stating:

"It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgements".

3.12.6 In this case the Proposed Development is a critical infrastructure proposal to connect a consented 99 MW wind farm to the grid network, it is national development, and enables an important step forward to the achievement of Net Zero. The proposals are consistent and supported by all other NPF4 policies. On balance, the benefits of the Proposed Development, and its contribution to addressing the climate emergency and biodiversity is considered to outweigh the impacts it would give rise to.

4. Appraisal against the Local Development Plan

4.1 The Development Plan

4.1.1 The statutory Development Plan covering the Site is:

> The Moray Local Development Plan (MLDP) (adopted 27th July 2020).

4.1.2 The MLDP sets out the general planning policies for the Council area and sets a vision for sustainable economic growth which must be balanced carefully with the area's outstanding and diverse natural and cultural environment.

4.2 Policy Position

4.2.1 The Proposed Development is located in the countryside outwith settlement boundaries.

4.2.2 Policy EP4 provides specific guidance on proposals within the Countryside Around Towns and provides that "proposals will be refused unless they:

a) *Involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or*

b) *Are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas…or,*

c) *Are a designated "LONG" term housing allocation released for development under the terms of Policy DP3.*

Countryside Around Towns areas are classed as "sensitive" areas in terms of Policy DP4 Rural Housing and no new rural housing will be permitted within them unless the above criteria is met".

4.2.3 No specific policy for development within the wider countryside is provided within the MLDP.

4.2.4 Policy DP9 provides policy on renewable energy and supports proposals where they are compliant with policies to safeguard and enhance the built and natural environment, do not result in the loss of damage of prime agricultural land and avoid or address any unacceptable significant adverse impacts on key receptors as listed, including landscape and visual, noise, impact on water environment, soils, traffic, ecology, and tourism.

4.2.5 No reference to electricity grid transmission is provided within this or other policies of the MLDP. Support for renewable energy generation projects is clear however, and the need for associated connection to grid is a critical part of the delivery thereof, and the ability to contribute to net zero and address climate change.

4.2.6 Policy PP2 – Sustainable Economic Growth Provides support for development proposals which support the Moray Economic Strategy to deliver sustainable economic growth, where the quality of the natural and built environment is safeguarded, where there is a clear locational need, and all potential impacts can be satisfactorily mitigated. The delivery of new electricity infrastructure to connect a committed and consented Wind Farm can be considered consistent with these principles with a clear locational need, and a contribution to sustainable growth locally and nationally, through the drive to address climate change and increased transmission of green energy.

4.2.7 Policy DP1 – Development Principles is applicable to all development taking into account the nature and scale of proposals and individual circumstances. The Council will require

applicants to provide impact assessments in order to determine the impact of a proposal on key environmental features and networks. Proposals will be supported if they conform to relevant LDP policies, proposals and additional guidance and meet a number of criteria including: Design, Transportation, Water Environment & Pollution & Contamination.

4.2.8 Other LDP policies relevant to the Proposed Development are:

- EP1 Natural Heritage Designations
- EP2 Biodiversity
- EP3 Special Landscape Areas and Landscape Character
- EP7 Forestry, Woodlands, and Trees
- EP8 Historic Environment
- EP10 Listed Buildings
- EP12 Management and Enhancement of the Water Environment
- EP14 Pollution Contamination Hazards
- EP16 Geodiversity and Soil Resources

4.2.9 A summary of policies is set out in **Table 4.1 b**elow.

Table 4.1: MLDP Policies

MLDP Policy	Policy Summary
EP1 - Natural Heritage Designation	Provides direction on approaches to assessment expected where Proposed Developments have potential to effect European, National or Local Designations sites of natural heritage value. Any significant adverse effects must be clearly outweighed by social, environmental, or economic benefits of relative degrees of importance thereof. The consideration of alternatives and appropriate mitigation is an important requirement.
EP2 - Biodiversity	All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Proposal must safeguard and where possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.
EP7 – Forestry, Woodlands, and Trees	Supports the Moray Forestry and Woodlands Strategy and promotes tree retention unless technically unfeasible. Require the identification of safeguarding distances during construction. Promotes the retention of all trees where possible and recognises the importance of ancient woodland not just for trees but for the soil structure, flora and fauna and irreplaceable ecosystems. Requirement for compensatory planting on a one-to-one basis where retention can not be met either on or off-site or though commuted payments to Moray Council.
EP8 – Historic Environment	Policy aims to protect archaeological sites and Scheduled Monuments from development that would have an adverse impact on their integrity and setting. Proposals will be refused where they adversely affect the integrity of the setting of these features unless the developer proves that significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance. Sites of local interest which are adversely affected will be refused unless local public benefits clearly outweigh the value of the site, that it can be shown alternatives have been considered and mitigation is proposed.

MLDP Policy	Policy Summary
EP10 – Listed Buildings	Proposals which have a detrimental effect on the character, integrity of setting of a listed building will be refused.
EP12 - Management and Enhancement of Water	New development will not be supported where it would be at significant risk of flooding or if it would significantly increase the possibility of flooding elsewhere. Assessments must demonstrate these elements as required. Surface water from development must be dealt with in a sustainable manned and all sites must be drained by a sustainable urban drainage system (SUDS). Proposals must also be designed to avoid adverse impacts on the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement if appropriate.
EP14 - Pollution Contamination Hazards	Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanies by a detailed assessment reporting on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Proposals on potentially contaminated land will be approved where they comply with policies requiring site investigations and risk assessments and where necessary where effective remediation is agreed.
EP16 – Geodiversity and Soil Resources	Requirement for proposals which have potential for peat and other carbon rich soils to be disturbed or lead to release of carbon dioxide contributing to greenhouse gas emissions to be accompanied by an assessment of the likely effects, proposed mitigation and measures to minimise release. Further requirement to avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded. Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates avoidance of the deepest areas of peat. Where required, a peat management plan will be required.
PP2 - Sustainable Economic Growth	Provides support for development proposals which support the Moray Economic Strategy to deliver sustainable economic growth, where the quality of the natural and built environment is safeguarded, where there is a clear locational need, and all potential impacts can be satisfactorily mitigated.

Policies: Summary Appraisal

4.2.10 In light of the silence on transmission infrastructure within the MLDP, NPF4 and the ND3 status of the project, takes precedence. The focus of MLDP policy in terms of assessing the acceptability of proposals can be considered to lie on assessing the effects of proposals on the environment and on meeting principles for sustainable development throughout the Plan area as provided within DP1.

4.2.11 The requirements set within MLDP policies as detailed in Table 4.1 are consistent with the provisions of NPF4 Policy 11, and associated detailed policies as assessed in Chapter 3. Appraisal thereof demonstrates consistency with the provisions of MLDP with assessments demonstrating no significant adverse effects of development on environmental features, other than the loss of ancient woodland.

4.2.12 Where ancient woodland is to be felled, compensatory planting is proposed consistent with policy provision as set withing EP7 and guided by the Scottish Government.

4.2.13 The strategic importance of the Proposed Development, essential to delivering the transmission of electricity from renewable generation is therefore considered to be wholly consistent with this policy provision for sustainable growth in PP2 and the provision of DP1.

4.2.14 The strategic importance and need for the development is clear and whilst no explicit provision for the support of electricity transmission lines is made within the MLDP, through the provision of support for the growth of renewables, consideration of reinforcing and enhancing transmission and grid connection requirements directly follows as being necessary and critical infrastructure in order to achieve the aims of Policy.

4.3 Conclusions on the LDP

4.3.1 The approach to the assessment undertaken is consistent with the provisions of DP1 and PP2.1. The proposals are sustainable in that they deliver critical enhanced capacity and security of supply within the electricity transmission grid. They enable the connection of a new committed renewable generation, and the location of the proposed OHL has been designed with embedded mitigation to minimise environmental impact and notwithstanding the loss of ancient woodland, there are no significant adverse effects of development predicted, after mitigation. Site selection has been key, along with the embedded mitigation which has heavily influenced design and layout, such that Proposed Development effects are considered to be acceptable.

4.3.2 There is considered to be an acceptable compliance with MLDP policy when considered as a whole.

5. Energy Policy and Needs Case

5.1 Introduction

5.1.1 Having established that the Proposed Development would be consistent with the Development Plan this Chapter sets out the energy policy framework which is material to the determination of the section 37 application.

5.1.2 The Chapter refers to the renewable energy policy and emissions reduction legislative framework with reference to relevant international, UK and Scottish provisions. This underpins what can be termed the need case for renewable energy from which the Proposed Development, as critical grid transmission infrastructure to support renewables, can draw a high level of support.

5.1.3 The Proposed Development requires to be considered against a background of UK and Scottish Government energy and climate policy and legislative provisions, as well as national planning policy and advice.

5.1.4 It is evident that there is clear and consistent policy support at all levels, from international to local, for the deployment of renewable energy generally (including onshore wind) to combat the global heating crisis, diversify the mix of energy sources, achieve greater security of supply, and to attain legally binding emissions reduction targets. It is essential therefore that the necessary infrastructure is put in place to enable that energy to be utilised.

5.2 The Climate Change and Renewable Energy legislative & Policy Framework

5.2.1 The Scottish Government's legislative and renewable energy policy framework and associated targets are considerations of the highest importance. It is important to be clear on the current position as it is a fast-moving topic of public policy.

5.2.2 The Climate Emergency

5.2.3 Scottish First Minister Nicola Sturgeon declared a "Climate Emergency" in her speech to the SNP Conference in April 2019. Furthermore, Climate Change Secretary Roseanna Cunningham made a statement on 14 May to the Scottish Parliament on the 'Global Climate Emergency' and stated:

"*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...."

5.2.4 The key issue in relation to these statements is that they acknowledge the very pressing need to achieve radical change and that by 2030 it will be too late to limit warming to 1.5 degrees. The Scottish Government therefore acted on the Climate Emergency in 2019 by bringing in legislation.

5.2.5 Furthermore, the declaration of the emergency is not simply a political declaration, it is now the key priority of Government at all levels. Indeed, defining the issue as an emergency is a reflection of both the seriousness of climate change, its potential effects and the need for urgent action to cut carbon dioxide and other GHG emissions.

5.2.6 The scale of the challenge presented by the new targets for net zero within the timescale adopted by the Scottish Government on the advice of the CCC is considerable, especially given the requirements for decarbonisation of heat and transport – this will require very substantial increases in renewable electricity generation by 2030.

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

5.2.7 Against this severe backdrop, the Scottish Government has set legal obligations to decarbonise and reduce emissions. Most notably, the Scottish Government has a statutory target to achieve "net zero" by 2045, with interim targets of 75% by 2030 and 90% by 2040, further supported by annual targets. It is clear that to have any hope of achieving the net zero target, much needs to happen by 2030.

5.2.8 When it was enacted, the Climate Change (Scotland) Act 2009 set world leading greenhouse gas emissions reduction targets, including a target to reduce emissions by 80% by 2050. However, the new Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 amends the 2009 Act and sets even more ambitious targets.

5.2.9 The 75% target required to be met by 2030 is especially challenging[6]. Indeed, when the matter was proceeding through Parliament, it was the Scottish Parliament that increased the requirement from a 70 to 75% reduction by 2030. This acts upon the declaration of the Climate Emergency and recognises the urgent response that is required.

5.2.10 The Scottish Government publishes an annual report that sets out whether each annual emissions reduction target has been met. **Table 5.1** below sets out the annual targets for every year to net-zero. The report for the 2019 target year was published in June 2021. The report states that the 'GHG Account' reduced by only 51.5% between the baseline period and 2019. As noted, the 2019 Act specifies a 55% reduction over the same period – therefore the targets for 2018 and 2019 were not met.

5.2.11 The Scottish GHG Statistics for 2020 were released in June 2022. These show that the GHG account reduced by some 58.7% between the baseline period and 2020. However according to the report[7], the drop in emissions between 2019 and 2020 was mainly down to lower emissions from domestic transport, international flights and shipping and energy supply. All other sectors demonstrated modest reductions over this period, except the housing sector.

5.2.12 Coronavirus restrictions were responsible for the large drop in emissions from transport, while residential emissions increased by 0.1 MtCO2e as more people worked from home during the pandemic. The Scottish Cabinet Secretary for Net Zero, Energy and Transport Michael Matheson made a Statement[8] to the Scottish Parliament on 07 June 2022 on the release of the latest statistics. In the Statement he commented as follows:

5.2.13 The Scottish Net Zero Secretary Michael Mathewson stated in June 2022 on the release of the latest statistics:

"*Nonetheless, the most significant changes are in the transport sector and are associated with the temporary measures taken in response to the Covid-19 pandemic. We must be prepared for these figures to substantially rebound in 2021. There can be no satisfaction taken in emissions reductions resulting from the health, economic and social harms of the pandemic*." (emphasis added)

[6] As set out in this Statement (paragraph 6.10), none of the five scenarios modelled by the CCC – even its most optimistic and stretching – suggests Scotland is close to achieving the 75% emissions reduction by 2030.

[7] Scottish Government. Official Statistics, Scottish Greenhouse Gas Statistics 2020, (June 2022).

[8] Ministerial Statement to Scottish Parliament by Cabinet Secretary for Net Zero, Energy and Transport on 07 June 2022, 'Greenhouse gas emission statistics 2020'.

5.2.14 This demonstrates the scale of change required over the next decade to achieve the 2030 target. This also means the trajectory, in terms of the scale and pace of action to reduce carbon dioxide emissions, is steeper than before and the 2020s is a critical decade.

Table 5.1: Scotland's Annual Emission Reduction Targets to Net Zero

Year	% Reduction Target	Actual Emissions Reduction %	Year	% Reduction Target
2018	54	50	2032	78
2019	55	51.5	2033	79.5
2020	**56**	**58.7**	2034	81
2021	57.9	-	2035	82.5
2022	59.8	-	2036	84
2023	61.7	-	2037	85.5
2024	63.6	-	2038	87
2025	65.5	-	2039	88.5
2026	67.4	-	**2040**	**90 (Interim)**
2027	69.3	-	2041	92
2028	71.2	-	2042	94
2029	73.1	-	2043	96
2030	**75**	**Interim Target**	2044	98
2031	*76.5*	-	***2045***	***100% Net Zero***

Note: Current available data shown in yellow

5.2.15 The targets set out in the above Table clearly illustrate the speed and scale of change that is required, essentially prior to 2030. This also demonstrates that up to 2020 the annual percentage reduction that was required was 1% but this then increases each year from 2020 to 2030. It increases to 1.9% for each year between 2020 and 2030. This is the level of change that is required to achieve the 2030 target and represents a near doubling of the response.

5.2.16 This means the trajectory, in terms of the scale and pace of action to reduce carbon dioxide emissions, is steeper than before and the 2020s is a critical decade.

5.2.17 It is no exaggeration to say that there is a 'mountain to climb' to meet Scotland's 75% target for 2030. The CCC modelled five scenarios in CB6 and in none – even its most optimistic – is Scotland close to achieving a 75% emissions reduction by 2030: "*Scotland's 75% target for 2030 will be extremely challenging to meet, even if Scotland gets on track for net zero by 2045, Our balance net zero pathway for the UK would not meet Scotland's 2030 target – reaching a 64% reduction by 2030 – while our most stretching tail winds scenario reaches a 69% reduction*" (CB6, page 229).

The Scottish Energy Strategy (2017)

5.2.18 The Scottish Energy Strategy (SES) was published in December 2017. The SES preceded the important events and publications referred to above but nevertheless sets out that

onshore wind is recognised as a key contributor to the delivery of renewable energy targets – specifically 50% energy from renewable sources to be attained by 2030. The SES did not and could not take account of what may be required in terms of additional renewable generation capacity to attain the new legally binding 'net zero' targets so it is out of date in that respect.

5.2.19 The SES refers to "*Renewable and Low Carbon Solutions*" as a strategic priority (page 41) and states "*we will continue to champion and explore the potential of Scotland's huge renewable energy resource, its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets*".

5.2.20 The SES sets out what is termed the "opportunity" for onshore wind and there is explicit recognition that onshore wind is amongst the lowest cost forms of power generation. It is also recognised as "*a vital component of the huge industrial opportunity that renewables creates for Scotland*".

5.2.21 The SES sets out the Government's clear position on onshore wind namely:

5.2.22 "*our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland's future – helping to decarbonise our electricity, heat and transport systems, boosting our economy, and meeting local and national demand."*

5.2.23 The SES goes on to cross refer to further detail in relation to onshore wind as contained within the Onshore Wind Policy Statement (OWPS, 2017) which was published alongside the SES. The SES therefore, in addition to setting new stretching renewable energy and electricity targets, gives unequivocal strong policy support for the further development of onshore wind.

The Onshore Wind Policy Statement (2022)

5.2.24 The Scottish Government published an updated Onshore Wind Policy Statement (OWPS) on 21 December 2022. It replaces the version published in November 2017.

5.2.25 The Ministerial Foreword makes it explicitly clear that seeking greater security of supply and lower cost electricity generation are now key drivers alongside the need to deal with the climate emergency. In this regard, the Cabinet Secretary for Net Zero, Energy and Transport states (page 3):

"*that is why we must accelerate our transition towards a net zero society. Scotland already has some of the most ambitious targets in the world to meet net zero but we must go further and faster to protect future generations from the spectre of irreversible climate damage*".

"*Scotland has been a frontrunner in onshore wind and, while other renewable technologies are starting to reach commercial maturity, continued deployment of onshore wind will be key to ensuring our 2030 targets are met*".

5.2.26 The Foreword states that onshore wind has the ability to be deployed quickly, is good value for consumers and is also widely supported by the public. The Minister further states that:

"*This Statement, which is the culmination of an extensive consultative process with industry, our statutory consultees and the public, sets an overall ambition of 20 GW of installed onshore wind capacity in Scotland by 2030.*

While imperative to meet our net zero targets it is also vital that this ambition is delivered in a way that is fully aligned with, and continues to enhance, our rich natural heritage and native flora and fauna, and supports our actions to address the nature crisis and the climate crisis".

5.2.27 The OWPS is structured on the basis of eight chapters which contain a mix of policy guidance and also technical information. Key content of relevance to the Proposed Varied Development is referenced below.

5.2.28 The OWPS Chapter 1 “Ambitions and Aspirations” (page 5) refers to current deployment of onshore wind in Scotland and states:

"*We must now go further and faster than before. We expect the next decade to see a substantial increase in demand for electricity to support net zero delivery across all sectors, including heat, transport, and industrial processes*.”

5.2.29 It is explained that National Grid's Future Energy Scenarios project concludes that Scotland's peak demand for electricity will at least double within the next two decades and that this will require a substantial increase in installed capacity across all renewable technologies.

1.1.29 Paragraph 1.1.4 states “*our aim is to maintain the supportive policy and regulatory framework which will enable us to increase that deployment*".

5.2.30 Section 1.3 of the OWPS further refers to the new 20 GW ambition and acknowledges that the Scottish Government's Programme for Government 2022/2023 committed Government to enabling up to 12 GW of onshore wind to be developed and it is stated that:

"*It is vital to send a strong signal and set a clear expectation on what we believe onshore wind capacity will contribute in the coming years.*

In line with this commitment, and reflecting the natural life cycles of existing wind farms, this statement sets a new ambition for the deployment of onshore wind in Scotland:

A minimum installed capacity of 20 GW of onshore wind in Scotland by 2030.

This ambition will help support the rapid decarbonisation of our energy system, and the sectors which depend upon it, as well as aligning with a just transition to net zero whilst other technologies reach maturity".

5.2.31 This statement is followed by reference to the “Legislative Context”, in particular the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the related Net Zero greenhouse gas emissions targets. The OWPS states (paragraph 1.4.1) "*meeting these targets will require decisive and meaningful action across all sectors*".

5.2.32 Paragraph 2.4.2 states that "onshore wind will play a crucial role in delivering our legally binding climate change targets".

5.2.33 The Scottish Government has made clear that the 20 GW ambition of installed capacity is a “minimum”. In short, there is a substantial ‘hill to climb’ to attain that figure and projects that are not yet in the planning system are unlikely to provide installed capacity by 2030. This underlines the importance of the benefits that the Proposed Development can deliver – namely enabling the transmission of installed capacity.

5.2.34 This new target means that the Scottish Government’s ambition, as stated in December 2022, is to increase the installed capacity of onshore wind in Scotland by a minimum amount equivalent to about 130% of the entire installed capacity of all current operational onshore wind farms in Scotland in a period of around eight *years*. The Proposed Development and its contribution must be considered in the context of the sheer scale and urgency of the stated Scottish Government’s position.

5.2.35 Chapter 8 of the OWPS deals with ‘Onshore Wind, Energy Systems and Regulation’. Section 8.2 refers to network planning and delivery and states:

“*Delivering our ambition of 20GW of onshore wind by 2030 will create demands on our electricity infrastructure. New developments will need to connect quickly to Scotland’s distribution and transmission networks. Networks must be able to invest quickly and ahead of need in order to ensure swift and efficient connections for onshore wind developments*”. (emphasis added)

5.2.36 The Proposed Development will enable the Rothes III onshore wind project to contribute to the 2030 target.

5.2.37 Page 49 of the OWPS sets out overall conclusions and these include *inter alia* the following key points:

- Deployment of onshore wind is "mission critical for meeting our climate targets". (emphasis added)
- The Government has established "*a clear expectation of delivery with our ambition for a **minimum** installed capacity of 20GW of onshore wind in Scotland by 2030 and providing a vehicle for that delivery through the creation of our Onshore Wind Strategic Leadership Group*". (emphasis added)

5.2.38 The term "mission critical" referred to above is strong language and indicates onshore wind is crucial and extremely important to the attainment of the Government's policy and legislative objectives.

The Draft Energy Strategy & Just Transition Plan (2023)

5.2.39 The Scottish Government published a new draft 'Energy Strategy and Just Transition Plan' entitled 'Delivering a fair and secure zero carbon energy system for Scotland' on 10 January 2023. The new Strategy is to replace the one previously published in 2017. The consultation period on the draft runs up until 4 April 2023.

5.2.40 The Ministerial Foreword states:

"*The imperative is clear: in this decisive decade, we must deliver an energy system that meets the challenge of becoming a net zero nation by 2045, supply safe and secure energy for all, generate economic opportunities, and build a just transition*…

The delivery of this draft Energy Strategy and Just Transition Plan will reduce energy costs in the long term and reduce the likelihood of future energy cost crises.

It is also clear that as part of our response to the climate crisis we must reduce our dependence on oil and gas and recognised that Scotland is well positioned to do so in a way that ensures we have sufficient, secure and affordable energy to meet our needs, to support economic growth and to capture sustainable export opportunities.

For all these reasons, this draft Strategy and Plan supports the fastest possible just transition for the oil and gas sector in order to secure a bright future for a revitalised North Sea energy sector focused on renewables."

5.2.41 The Foreword adds that the draft Strategy sets out key ambitions for Scotland's energy future including:

- More than 20 GW of additional renewal electricity on and offshore by 2030.
- Accelerated decarbonisation of domestic industry, transport, and heat.
- Generation of surplus electricity, enabling export of electricity and renewable hydrogen to support decarbonisation across Europe.
- Energy security through development of our own resources and additional energy storage.
- A just transition by maintaining or increasing employment in Scotland's energy production sector against a decline in North Sea production.

5.2.42 A Ministerial Statement by the Cabinet Secretary for Net Zero, Energy and Transport was also published on 10 January 2023 which states that Scotland is at a pivotal point in its transition to net zero and the Strategy "*charts a clear course for the transformation of the energy sector, one of Scotland's most important industries, to 2030 and beyond*".

5.2.43 The Ministerial Statement adds:

"*wind power is one of the lowest cost forms of electricity and the Scottish Government is clear that this is where we should focus – reducing costs in the long term and addressing vulnerability to future energy cost crisis*.

This Strategy gives certainty to investors that Scotland is a place that supports renewable energy wholeheartedly…..industry must accelerate investment in key sectors and infrastructure, and continue to build capacity in the Scottish supply chain and the skills of the energy workforce".

5.2.44 The draft Strategy states (page 7, Executive Summary) that the vision for Scotland's energy system is:

"*That by 2045 Scotland will have a flourishing, climate friendly energy system that delivers affordable, resilient, and clean energy supplies for Scotland's households, communities and business. This will deliver maximum benefit for Scotland, enabling us to achieve a wider climate and environmental ambitions, drive the development of a wellbeing economy and deliver a just transition for our workers, businesses, communities and regions.*

In order to deliver that vision, this Strategy sets out clear policy positions and a route map of actions with a focus out to 2030".

5.2.45 A fundamental part of the Strategy is expanding the energy generation sector. The Executive Summary states (page 8) that Scotland's renewable resources mean that:

"*we can not only generate enough cheap green electricity to power Scotland's economy, but also export electricity to our neighbours, supporting jobs here in Scotland and the decarbonisation ambitions of our partners.*

We are setting an ambition of more than 20 GW of additional low cost renewable electricity generation capacity by 2030, including 12 GW of onshore wind….

An additional 20 GW of renewable generation will more than double our existing renewable generation capacity by 2030…..."

5.2.46 In terms of policy and onshore wind, the draft Strategy cross refers to NPF4 and the recently published OWPS and reiterates the new ambition for a deployment of a minimum further 12 GW of onshore wind by 2030.

5.2.47 The draft Strategy specifically addresses energy networks (page 36) and states "significant infrastructure investment in Scotland's transmission system is needed to ameliorate constraints and enable more renewable power to flow to centres of demand."

5.2.48 It states that National Grid has identified the requirement for over £21 billion of investment in GB electricity transmission infrastructure to meet 2030 targets and that over half of this investment will involve Scottish transmission owners SPEN and SSEN.

5.2.49 The draft Strategy adds that: "the Scottish Government is working closely with network companies to support timely delivery of this infrastructure".

5.2.50 Reference is made to the ambitious business plans of transmission businesses which "reflect the scale and pace of delivery required to meet Scottish Government ambitions".

5.3 Conclusions on Material Considerations

5.3.1 Overall, the draft Energy Strategy forms part of the new policy approach alongside the OWPS and NPF4 and confirms the Scottish Government's policy objectives and related targets reaffirming the crucial role that onshore wind and enabling transmission infrastructure will play in response to the climate crisis which is at the heart of all these policies. Both the OWPS and the Draft Energy Strategy are important material considerations. It is acknowledged that the Draft Energy Strategy is subject to consultation, however the OWPS has been published in its final form.

6. Conclusions

6.1 Conclusions

6.1.1 The answers to the key questions posed are:

> The Proposed Development is consistent with the relevant policies of the Development Plan and with the plan when read as a whole.

> The relevant material considerations further support the position that the Proposed Development should be granted planning permission.

6.2 The Planning Balance

6.2.1 The application for the Proposed Development will enable an increase renewable energy generation capacity and will enhance transmission and supply across the region and the GB network and will contribute significantly to delivering the Government's Net Zero policy and legislative targets. Provision for reinforcement and enhancement of the transmission network as 'National Development' was clearly stated within NPF3, and this policy approach continues and is strengthened in NPF4.

6.2.2 The Proposed Development is an essential component within the transmission network to strengthen the existing transmission system and facilitate a committed connection of low carbon generation into the wider transmission network. This will support obligations to deliver an economic, efficient, and coordinated transmission system for Net Zero.

6.2.3 Achieving Net Zero is a legal requirement, and the Scottish Government has recognised, most recently in the new OWPS, that a very substantial quantity of new onshore wind is required to meet the legal emissions reduction requirement by 2030 – namely a minimum of 20GW of operational capacity. Deployment of more onshore wind is described as being "*mission critical for meeting our climate targets*" in the OWPS.

6.2.4 The Climate Emergency is not just a consideration but a factor of considerable importance and is now a fundamental guiding principle in NPF4 for all decisions. The Needs Case should be afforded substantial weight in the planning balance. It is not an over-riding consideration; however, it must be acted on. It is the cumulative effect of a large number of individual renewable projects together with a reinforced transmission network which will move Scotland towards where it needs to be. It is critical that the necessary transmission infrastructure is in place to enable these renewable projects to be realised.

6.2.5 The revised OWPS has been published. NPF4 came into force on 13 February 2023. Both are up to date statements of Scottish Government policy, directly applicable to determination of these section 37 applications. Both documents should be afforded very considerable weight in decision-making.

6.2.6 NPF4 and the OWPS are unambiguous as regards the policy imperative to combat climate change, the crucial role of further onshore wind in doing so, and the scale and urgency of onshore wind deployment required. As described in this Planning Statement:

> The global climate emergency and the nature crisis are the foundations for the NPF4 Spatial Strategy as a whole. The twin global climate and nature crises are "*at the heart of our vision for a future Scotland*" so that "*the decisions we make today will be in the long-term interest of our country*"[9]. The policy position, and the priority afforded to combatting the Climate Emergency, is different to that under NPF3 and SPP;

[9] NPF4, page 2.

- NPF4 Policy 1 directs decision-makers to give significant weight to the global Climate Emergency in all decisions. This is a radical departure from the usual approach to policy and weight and clearly denotes a step change in planning policy response to climate change. The matter of weight is no longer left entirely to the discretion of the decision maker; and
- Both NPF4 and the OWPS are clear that further onshore wind development has a crucial role in combatting climate change, transitioning to a net-zero Scotland and ensuring security of energy supply. NPF4 Policy 11 strongly supports proposals for grid transmission infrastructure.

6.2.7 It is important to fully recognise both the scale and urgency of the challenge set out in these new policy documents and the required response from decision-makers. NPF4 is clear that significant progress must be made by 2030 requiring, as set out in the OWPS, that "*we must now go further and faster than before. We expect the next decade to see a substantial increase in demand for electricity to support net zero delivery across all sectors, including heat, transport and industrial processes*"[10].

6.2.8 By any measure, the identified need for delivery of this additional capacity and associated transmission infrastructure is a massive challenge requiring an urgent and positive response. The urgency is to ensure consents are delivered to allow infrastructure to be in place such that the transmission of renewable energy can take place before 2030.

6.2.9 National Developments are significant developments of national importance that will help to deliver the Spatial Strategy. As the Statement of Need for Strategic Renewable Electricity Generation and Transmission Infrastructure explains[11] "*A large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets*."

6.2.10 The recognition of national development relates to the attainment of Government renewable generation and emission reduction targets. Moreover, it relates to the importance of developing electricity supplies which are not dependent on volatile international markets and are located within the UK's national boundaries. The urgency for an electricity system which is self-reliant and not reliant on fossil fuels is now enormous, in order to protect consumers from high and volatile energy prices, and to reduce opportunities for destructive geopolitical intrusion into national electricity supplies and economics has grown in importance in recent months. The 'window' until the key date of 2030 for Scottish Government targets is also getting narrower.

6.2.11 NPF4 requires that the decision-maker must also identify and weigh the adverse effects of a proposed development and that weight is entirely a matter for the decision maker. However, the way that decision makers can recognise the strengthening policy imperative and the increased weight that should be given to the benefits of the Proposed Development is by giving relatively more weight in the planning balance to the seriousness and importance of energy policy related considerations and the contribution of a proposed development in meeting green energy targets.

6.2.12 It is submitted that this approach is very clearly reflected and articulated in NPF4 (the Scottish Government policy now expressly states that significant weight will be given to the global climate and nature crises and a proposed development's contribution towards meeting targets).

6.2.13 In this case, the Proposed Development will enable renewable capacity. It is submitted that very substantial weight should be given to this contribution when weighing the need for the development and its identified effects within the planning balance.

[10] OWPS 2022, paragraph 1.1.2.
[11] NPF4, page 103.

6.2.14 The limited effects of the proposed development, including now relevant effects listed in NPF Policy 11(e) have been addressed, are detailed in the application and have been the subject of assessment in the EA for the application.

6.2.15 In terms of Policy 11, in considering the identified impacts of the Proposed Development significant weight must be placed on its nationally important contribution to renewable energy generation and greenhouse gas emissions reduction targets. In addition, an appropriate set of conditions can be drafted to further ensure that the project can be implemented in an environmentally acceptable way.

6.3 Overall Conclusion

6.3.1 It is considered that the benefits that would arise from the Proposed Development should be afforded substantial weight in the planning balance. The delivery of this infrastructure will substantially assist in facilitating the transmission of renewable energy to help delivery of the Net Zero legislative targets and policy imperative.

6.3.2 The selected alignment has sought to limit adverse effects on the environment wherever possible, with further mitigation applied as appropriate to reduce residual effects to not significant in the majority of areas. The loss of ancient woodland is unavoidable in this instance and must be considered in the wider balance of delivery of nationally important infrastructure and relative to detailed survey and categorisation of the woodland affected. Compensatory measures are clearly set out and are considered appropriate in this instance. The potential biodiversity enhancement associated with the project as a whole, and in specific localities has been considered and delivery mechanisms will be progressed as the detailed project design and methodologies are progressed.

6.3.3 Consideration of the application will involve striking a balance between the need for the Proposed Development, technical and economic considerations and the mitigation of likely significant environmental effects. This approach is central to the initial route selection and drives alignment decisions. It is not considered that the benefits of the Proposed Development are outweighed by its adverse effects.

6.3.4 The development is a national development which supports renewable electricity generation through the required expansion of the electricity grid to connect and transmit the output from a new onshore wind farm. The proposed development will have an overall net positive impact on achieving national greenhouse gas emissions reduction targets and is being delivered in a sustainable manner.

6.3.5 Drawing together the material considerations set out above, it is considered that there is a strong basis to conclude that the Proposed Development is acceptable and that the obligations under Schedule 9 have been met and should be supported for approval.

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