

Craiginmoddie Wind Farm

Environmental Impact Assessment Report Chapter 5: Renewable Energy and Planning Policy

December 2020

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5 RENEWABLE ENERGY AND PLANNING POLICY

Introduction

- 5.1 This chapter provides an outline of the national and local planning policies, guidance and other material considerations that are potentially relevant to the Proposed Development.
- 5.2 To maintain the impartiality of the Environmental Impact Assessment Report (EIA Report), this chapter does not assess whether the Proposed Development would comply with the identified policies. A separate Planning Statement which assesses the conformity of the Proposed Development with the Development Plan and other material considerations is also submitted as part of the planning application. The Planning Statement is separate from the EIA Report.
- 5.3 The proposed Development will be considered under Section 36 of the Electricity Act 1989. As part of the S.36 application process, the applicant will request that the Scottish Ministers issue a Direction under s.57(2) of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") that deemed planning permission be granted for the proposed development.
- 5.4 In materially considering the Development Plan the test to be applied is not the same as in the case of the Town and Country Planning (Scotland) Act 1997 as amended (the 1997 Act). The test, as set out in Section 25 of the 1997 Act, against the Development Plan is not triggered in the case of a S36 applications. In effect a development being considered under Section 36 of the Electricity Act need not necessarily accord with the Development Plan to be considered acceptable for consent to be granted.
- 5.5 Schedule 9 of the Electricity Act 1989 sets out environmental features which the decision maker must have regard to and identifies that mitigation must be considered. Sub-paragraph 1 is relevant to an applicant if they hold a License at the date the application is submitted. Sub Paragraph 1 states:

"In formulating any relevant proposals, a licence holder or a person authorised by exemption to generate, transmit, distribute or supply electricity

(a) shall have regard to 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; and

(b) shall 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."

- 5.6 Sub-paragraph 2 applies to all applicants and refers to sub paragraph 1. Sub-paragraph 2 states:

"In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall 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 that sub-paragraph."

Planning Policy

5.7 This section sets out the planning policy context that is relevant to the Site and Proposed Development. It includes consideration of:

- South Ayrshire Local Development Plan
- National Planning Framework 3;
- Scottish Planning Policy; and
- Other material considerations

5.8 We set out each in turn below.

The Development Plan

5.9 The Development Plan applicable to the Site consists of:

- South Ayrshire Local Development Plan
- Supplementary Guidance: Wind Energy (SG)

5.10 Relevant policies are set out below.

South Ayrshire Local Development Plan

5.11 The South Ayrshire Local Development Plan was adopted in September 2014 (the SALDP). The Development Plan is therefore more than 5 years old and, on this basis, the proposed Development benefits from the full application of the presumption in favour of sustainable development as set out within SPP.

Proposed Replacement South Ayrshire Local Development Plan (PLDP2)

5.12 Although not yet adopted the second Proposed South Ayrshire Local Development Plan (PLDP2) was published for consultation in September 2019. The applicable policies in MPLDP2 are not materially different to those of the existing LDP but where there is relevant additional text or commentary within PLDP2 (which is at Modification stage are referred to as MPLDP2 below) this is noted in the policy summary section below.

5.13 Notwithstanding the status of the PLDP2, it gives an indication of Council intent towards the stance it wishes to adopt in the consideration of planning applications in the future (subject to the adoption of MPLDP2, anticipated in 2021).

5.14 The Supplementary Guidance, Wind Energy remains relevant, with its windfarm spatial framework having been incorporated into MPLDP2 and the SG is likely to be re-adopted in similar form under the adopted LDP.

5.15 The Wind Energy Policy is the most relevant SALDP Policy for the Proposed Development. The SALDP Wind Energy Policy states:

5.16 We will support proposals if:

a. they are capable of being accommodated in the landscape in a manner which respects its main features and character (as identified in the South Ayrshire Landscape Wind Capacity Study or in any subsequent updates to that study), and which keeps their effect on the landscape and the wider area to a minimum (through a careful choice of site, layout and overall design);

b. they do not have a significant detrimental visual impact, taking into account views experienced from surrounding residential properties and settlements, public roads and paths, significant public viewpoints, and important recreational assets and tourist attractions;

c. they do not have any other significant detrimental effect on the amenity of nearby residents, including from noise and shadow flicker;

d. they do not have a significant detrimental effect on natural heritage features, including protected habitats and species, and taking into account the criteria in LDP policy: natural heritage;

e. they do not have a significant detrimental effect on the historic environment, taking into account the criteria in LDP policy: historic environment and LDP policy: archaeology;

f. they do not adversely affect aviation, defence interests and broadcasting installations; and

g. their cumulative impact in combination with other existing and approved wind energy developments, and those for which applications for approval have already been submitted, is acceptable.

“We will produce supplementary guidance on wind farms, which will identify preferred areas of search, areas with potential constraints and areas requiring significant protection; and will provide more detail on how the above-mentioned criteria will be applied in assessing all proposals for wind farms and turbines. We will use the South Ayrshire Landscape Wind Capacity Study (or any subsequent updates to that study) to help us decide the effect of proposals on the landscape. MPLDP2 refers specifically to the South Ayrshire Local Landscape Area Review (2018) to help determine the effects of proposals on the landscape.

Development proposals will not be permitted where, either individually or cumulatively, they would adversely affect the integrity of a Natura 2000 site.”

5.17 The following policies of the SALDP are also considered to be relevant to the Proposed Development:

- LDP Policy: Renewable Energy; Support for generating and using renewable energy in stand-alone locations and as part of new and existing development if they will not have a significant harmful effect on residential amenity, the appearance of the area and its landscape quality, biodiversity and cultural heritage.

MPLDP2 states that 'in all cases, development proposals will only be permitted where it can be demonstrated to our satisfaction that there would be no adverse effect on the integrity of European sites(s), either alone or in combination with other plans or projects'.

- LDP Policy: Landscape Quality; the policy notes the Council's intention to maintain and improve the quality of South Ayrshire's landscapes and its distinctive local characteristics. Proposals for development must conserve features that contribute to local distinctiveness, including; community settings; patterns of woodland, fields, hedgerow and tree features; historic landscapes, and skylines and hill features, including prominent views.

MPLDP2 refers to the review of the previously identified Local Landscape Designations undertaken in 2018. The aim of the review was to identify and safeguard important qualities of specific local landscapes, encourage their enhancement, improve public access where appropriate and raise awareness of their characteristics. Eleven Local Landscape Areas have been identified. For proposals within or affecting LLA the Council will also consider the guidance contained in the 'statements of importance' and management recommendations of the South Ayrshire Local Landscapes Designations Review (2018) and the extent of any economic benefit.

- LDP Policy: Protecting the Landscape; proposals within or next to Scenic Areas (as defined on the LDP environment map) will be considered against the following conditions: the significance of impacts and cumulative impacts on the environment, particularly landscape and visual effects as informed by the Ayrshire Landscape Character Assessment; how far they would benefit the economy; whether they can be justified in a rural location.
- LDP Policy: Woodland and Forestry; the Council will support proposals for woodland and forestry that are: consistent with the objectives and main action's of the Ayrshire and Arran Woodland Strategy; and sympathetic to the environmental, nature and wildlife interests of the area, and, wherever appropriate, provide recreational opportunities for the public.
- LDP Policy: Preserving Trees; where the Council is minded to grant planning permission for a development that will necessitate the removal of existing trees, the Council will require the developer to replace them with new appropriate compensatory planting, taking into account the special circumstance of the site.
- LDP Policy: Historic Environment; the council support development proposals affecting the heritage resources if the quality and design of the proposed development will protect and improve them. Specifically, Listed Buildings of architectural merit and

historic interest – the Council are in favour of protecting listed buildings and their settings; conservation areas, Scheduled Monuments; the Council will not accept development which would negatively effect the site or setting of a scheduled ancient monument; gardens and landscapes – the council will not accept development which would negatively affect gardens and designed landscapes.

MPLDP2 states that 'we will protect listed buildings and their settings from development that adversely affects their special architectural or historic interest'. In relation to Scheduled Monuments, development adversely affecting the asset will not be permitted unless there are exceptional circumstances.

- LDP Policy: Archaeology; Developers will need to show that the benefits of a proposal will clearly outweigh the archaeological value of an archaeological resource or feature.
- LDP Policy: Natural Heritage; Policy covers international designations such as Natura 2000 sites, National Designations such as SSSI and local designations including species protected by the Habitats Directive, Wildlife and Countryside Act 1981 or the Badgers Act 1992. In all instances, the Council will require development proposals to have regard to safeguarding features of nature conservation value including woodlands, hedgerows, lochs, ponds, watercourses, wetlands and wildlife corridors. Protected Species – planning permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation.
- LDP Policy: Land use and Transport; includes a requirement for developers to take appropriate measures to keep any negative effects of road traffic on the environment to a minimum.
- LDP Policy: Outdoor Public Access and Core Paths; policy includes aims to improve and protect all core paths and other significant access routes – including *inter alia* recognised rights of way and wind farm access tracks. SAC will only support proposals which would have a negative effect on a core path or other significant access route if satisfied that developers provide a suitable alternative route.
- LDP Policy: Water Environment; The Council will support the objectives of the Water Framework Directive (2000/60/EC). Development will only be allowed that meets these objectives and shows that; it will not harm the water environment; will not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water); and it will not harm the biodiversity of the water environment.

MPLDP2 introduces the requirement to avoid (or remove) instances of construction works and structures in and around the water environment as well as an appropriately sized buffer strip between the development and a watercourse.

- LDP Policy: Air, Noise and Light Pollution; The Council will not allow development which would expose significant numbers of people to unacceptable levels of air, noise or light pollution

- LDF Policy: Dark Skies; The Council will support the Dark Sky Forest Dark Sky Park, and will presume against development proposals within the boundaries of the park that would produce levels of lighting that would adversely affect its 'dark sky' status.

Supplementary Guidance: Wind Energy (SG)

5.18 Whilst the SALDP Wind Energy policy provides the basis for assessing wind energy developments, South Ayrshire Council adopted the Supplementary Guidance it refers to in December 2015. That SG provides detail by which wind energy proposals can be fully assessed. It provides a spatial strategy for wind energy, in line with the requirements of Scottish Planning Policy (and in so doing identifies areas within South Ayrshire which are afforded significant national protection) and it provides guidance on how the policy of the Local Development Plan will be applied in the consideration of proposals.

5.19 The SG covers the following issues:

- Impacts on landscape and landscape character
- Visual impacts
- Residential amenity (noise, shadow flicker, visual impact and traffic)
- Natural heritage including nationally and locally protected species and habitats
- Impacts on the historic environment and archaeology
- Aviation, defence and broadcasting interest
- Cumulative impacts
- Environmental management
- Hydrology and the water environment
- Borrow pits
- Carbon losses
- Flooding
- Decommissioning and restoration bond obligations
- Repowering
- Extensions
- Monitoring

5.20 The SG, along with the SALDP establishes the policy framework and the basis upon which all wind energy proposals within South Ayrshire are to be considered. The guidance

is designed to set out a spatial strategy for wind energy in South Ayrshire in line with requirements set out in Scottish Planning Policy (SPP) 2014.

- 5.21 The Spatial Framework combines four layers of information to determine those 'Areas of Significant Protection' in relation to wind farm development, which are:
- 2km buffers around settlements;
 - National and international designations;
 - Wild Land Areas (WLAs); and
 - Carbon rich soils, deep peat and priority peatland habitat.
- 5.22 The site lies outwith all 2 km settlement buffers, national and international designations and Wild Land Areas, none of the settlement buffers, national and international designations and WLAs apply to the site. Part of the Site contains small pockets of deep peat but these are minimal and not considered sufficient to render the Site as a Group 2 site overall and therefore it is considered as a Group 3 site in accordance with SPP as an 'Area with potential for wind farm development' (See Planning Statement).

Other Material Considerations

- 5.23 This section sets out relevant material considerations, namely:
- International Renewable Energy Policy Framework
 - UK Carbon and Renewable energy Policy
 - National Planning Framework 3
 - Scottish Planning Policy
 - Scottish Government Web Based Renewable Guidance
 - Local landscape capacity and wind farm sensitivity studies
- 5.24 These are considered in turn below.

International, National Planning Policy and Guidance

Renewable Energy framework

- 5.25 This section identifies the renewable energy policy framework at the international and national level that applies to renewable electricity generation and related climate change action.
- 5.26 The Planning Statement that accompanies this EIAR examines these policy documents in detail and sets out the hierarchy of EU, UK and Scottish Government renewable energy policy.
- 5.27 In terms of the relevant policy framework at the International and European level, the following key documents are of relevance:

- International Agreements and Obligations – The COP21 UN Paris Agreement; and
- EU Renewable Energy progress Report – June 2015
- The EU 2030 Clean Energy Package

5.28 In terms of UK carbon and renewable energy policy, the following documents are of relevance:

- The 2020 Routemap for renewable Energy in Scotland (2011, 2013, 2015);
- The Electricity Generation Policy Statement (2013);
- The Scottish Energy Strategy (2017)
- The Global Climate Emergency – Scotland's Response (2019);
- The Climate Change (Scotland) Act (2009 and 2019);
- Scotland Climate Change Plan (2018);
- The Update to the Climate Change Plan (2020);
- The UK's Sixth Carbon Budget (December 2020); and
- The UK Energy White Paper (December 2020)

5.29 These documents are covered in detail in the Planning Statement.

The National Planning Framework 3

5.30 National Planning Framework 3 (NPF 3) was published on 23 June 2014. NPF 3 is a long term strategy for Scotland and is the spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Together, NPF 3 and Scottish Planning Policy applied at the strategic and local levels are intended to help the planning system deliver the Government's vision and outcomes for Scotland and to contribute to the Government's central purpose.

5.31 The general and high level support for renewables is provided through the 'vision' which is referred to as *inter alia*:

- A successful, sustainable place – “we have a growing low carbon economy which provides opportunities...”;
- A low carbon place – “we have seized the opportunities arising from our ambition to be a world leader in low carbon generation, both onshore and offshore”; and
- A natural resilient place – “natural and cultural assets are respected; they are improving in condition and represent a sustainable economic, environmental and social resource for the nation”.

5.32 Further support is provided in Chapter 3 'A Low Carbon Place' which sets out the role that planning will play in delivering the commitments set out in 'Low Carbon Scotland: The Scottish Government's Proposals and Policies'. It states:

“the priorities identified in this spatial strategy set a clear direction of travel which is consistent with our world leading climate legislation”.

5.33 Paragraph 3.8 sets out an overall aim of meeting at least 30% of overall energy demand from renewables by 2020, including generating the equivalent of at least 100% of gross electricity consumption from renewable energy development. It seeks to “continue to capitalise on our wind resource”. The document cross-refers to the requirements of the Electricity Generation Policy Statement.

5.34 The accompanying Planning Statement assesses the Proposed Development against NPF 3.

Scottish Planning Policy

5.35 The Scottish Ministers published the most recent ‘Scottish Planning Policy’ (SPP) on 23 June 2014 as a statement of the Scottish Government’s policy on nationally important land use planning matters. It replaced Scottish Planning Policy 2010 and Designing Places (2001). The purpose of the SPP is to set out national planning policies which reflect Scottish Government Ministers’ priorities for the operation of the planning system. The SPP is a material consideration that carries significant weight, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.

5.36 SPP sets out that the planning system should:

- Support the transformational change to a low carbon economy, consistent with national objectives and targets, including delivering:
 - 30% of overall energy demand from renewables by 2020;
 - The equivalent of 100% of electricity demand from renewable sources by 2020.
- Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity;
- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

5.37 SPP contains two Principal Policies, namely ‘sustainability’ and ‘placemaking’. Sustainability is addressed at page 9 where paragraph 24 states:

“The Scottish Government’s central purpose is to focus government and public services and creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth”.

5.38 SPP introduces a ‘presumption in favour of development that contributes to sustainable development’. It states:

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

5.39 SPP requires that development plans adopt a spatial framework for onshore wind energy (para 161). It requires that areas for wind farm development should be assessed and designated according to three groups set out in Table 1 of the SPP which is reproduced below:

- **Group 1: Areas where wind farms will not be acceptable:** National parks and National Scenic Areas
- **Group 2: Areas of significant protection:** Areas in which wind farms may be appropriate in some circumstances, subject to demonstrating that significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. These areas include international and national designated sites, areas of wild land as per SNH map of wild land areas (2014), carbon rich soils, deep peat and priority peatland habitat, and areas within 2 km of cities, towns and villages as identified on the local development plan (the full extent of which to be determined by local planning authorities).
- **Group 3: Areas with potential for wind farm development:** Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

5.40 In terms of development management, paragraph 169 of SPP sets out that proposals for energy infrastructure development should always take account of spatial frameworks for wind farms and that considerations will vary relative to the scale of the proposal and characteristics of the area but are likely to include a number of matters, in particular:

- Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;
- The scale of contribution to renewable energy generation targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts – planning authorities should be clear about the likely cumulative impacts arising from all of the considerations below;
- Impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;
- Landscape and visual impacts, including effects on wild land;
- Effects on the natural heritage, including birds;
- Impacts on carbon rich soils, using the carbon calculator;
- Public access, including impact on long distance walking and cycling routes and scenic routes identified in the NPF;
- Impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- Impacts on tourism and recreation;
- Impacts on aviation and defence interest and seismological recording;
- Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- Impacts on road traffic;
- Impacts on adjacent trunk roads;
- Effects on hydrology, the water environment and flood risk;
- The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration;
- Opportunities for energy storage; and

- The need for a robust planning obligation to ensure that operators achieve site restoration.

5.41 A detailed assessment of the Proposed Development against SPP is provided in the accompanying Planning Statement.

Scottish Government Web Based Renewables Guidance

5.42 The Scottish Government has produced web-based renewables guidance. The planning advice comprises a number of individual guidance notes including 'Onshore Wind Turbines'. The Scottish Government published the most recent update of this on 28 May 2014.

5.43 The relevant aspects of the guidance are provided under the following headings and have been taken into account during design development.

- Landscape impact
- Impacts on wildlife and habitat, ecosystems and biodiversity
- Assessing impact on wildlife and habitats
- Buffer zones
- Impact on communities
- Separation distances
- Aviation matters
- Road traffic impacts
- Cumulative impacts; and
- Decommissioning.

5.44 The guidance advises that planning authorities should ensure, either via conditions or legal agreements, that site restoration takes place on expiry of the consent or the expiry of the specified period.

- South Ayrshire Landscape Capacity Study
- South Ayrshire Local Landscape Designations Review (2018)

South Ayrshire Landscape Capacity Study (updated 2018)

5.45 The SALWCS was originally published in 2013 and subsequently updated in 2018, principally to provide additional consideration of larger typology turbines than the original 2013 study. It aims to inform strategic spatial planning for wind energy and offers guidance for development through a landscape and visual sensitivity assessment for developments sited in the various Landscape Character Types (LCTs) within South Ayrshire. 'Sensitivity' to various development typologies is assessed for each LCT in relation to:

- landscape context;
- scale;
- landform;
- landscape pattern;
- built environment;

- perceptual qualities;
- visual amenity; and
- cumulative effects.

- 5.46 Each LCT is then assigned an overall 'sensitivity' rating based on the sum of these factors. This study explicitly excludes consideration of landscape value from its consideration of 'sensitivity' and, in terms of this assessment, is akin to GLVIA3 landscape susceptibility.
- 5.47 The findings of this study informs this assessment in respect of considering the effects of the Proposed Development on landscape character within South Ayrshire.

South Ayrshire Local Landscape Designations Review (2018)

- 5.48 This study provides a review of existing, long standing local landscape designations in light of current national guidance and defines a new landscape designation, Local Landscape Areas (LLAs), within South Ayrshire. It sets out the boundaries for each LLA and provides a Statement of Importance which sets out reasons for designation and describes its special qualities along with a summary of sensitivities to change and management recommendations. This study informs this assessment in relation to considering effects of the Proposed Development on LLAs.

Summary

- 5.49 This chapter has described the relevant planning and renewable energy policy framework that has informed the Proposed Development and EIA. As explained above, the supporting Planning Statement provides a full assessment of the Proposed Development against the policy context set out in this Chapter.