

**CHAPTER 6: PLANNING POLICY**

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## 6. Planning Policy

### 6.1 Introduction

- 6.1.1 This Chapter identifies the relevant planning policy considerations for the Proposed Development, including reference to the statutory Development Plan for the Highland Council area, as well as other material considerations such as National Planning Policy and guidance and Scottish and UK government energy policy.
- 6.1.2 It is important to note that this Chapter does not include an assessment of the Proposed Development's compliance with the policy framework. Further details of the planning decision making framework, and extent to which the Proposed Development satisfies this framework, are included within the Planning Statement.
- 6.1.3 The Planning Statement has been submitted as part of the application package but does not form part of the EIA Report.

### 6.2 Legislative Background

- 6.2.1 The statutory context for the Proposed Development is that an application will be made to Scottish Ministers under Section 36 of the Electricity Act 1989 ("the 1989 Act"), and in conjunction with this seeking deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), as amended.
- 6.2.2 A decision on the Application under the 1989 Act is the principal decision to be made in determining the acceptance or otherwise of the Proposed Development.
- 6.2.3 Schedule 9 to the 1989 Act deals with preservation of amenity. In summary, the provisions set out a number of environmental features to which regard must be had and that mitigation must be considered. Sub-paragraph 1 can be relevant to an applicant if they hold a Licence at the date a Section 36 application is made. Sub-paragraph 2 applies in any event. Sub-paragraphs 1 and 2 state:
- (1) "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.*
- (2) 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."*
- 6.2.4 In considering the overall statutory and regulatory framework within which the Proposed Development should be assessed, the statutory Development Plan is a consideration which should be taken into account in the round with all other relevant considerations, and it is important to note that Section 25 of the 1997 Act is not engaged. This matter is

now settled following various High Court and Court of Session cases in recent years. Development Plan policies are, however, of relevance in understanding in a local context, the duties under Schedule 9 of the 1989 Act.

### 6.3 Energy Policy

#### Climate Change (Scotland) Act 2009 (“the 2009 Act”)

- 6.3.1 The 2009 Act creates a statutory framework for greenhouse gas emissions reductions in Scotland. It places climate change duties on Scottish public bodies and includes provisions on climate change including adaptation, forestry, energy efficiency and waste reduction.

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

- 6.3.2 The new Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 received Royal Assent on 31 October 2019. It amends the 2009 Act and commits Scotland to a target of net-zero emissions of all greenhouse gases by 2045 alongside a series of ambitious and challenging interim targets leading towards this net-zero target. The development of renewable energy, including onshore wind, is a key component in the Scottish Government’s vision to achieving this target.

#### Scottish Energy Strategy

- 6.3.3 The Scottish Energy Strategy was published in December 2017 and sets out the Scottish Government’s vision for the future energy system in Scotland.

- 6.3.4 The Strategy sets two new targets for the Scottish energy system by 2030:

- The equivalent of 50% of the energy for Scotland’s heat, transport and electricity consumption to be supplied from renewable sources; and
- An increase by 30% in the productivity of energy use across the Scottish economy.

- 6.3.5 Scotland’s energy priorities to 2050 are built around six priorities which include renewable and low carbon solutions. The Strategy notes that 54% of Scotland’s electricity needs were met from renewables in 2016.

- 6.3.6 Page 81 of the strategy notes that: *“onshore wind is another key component of the big industrial opportunity that renewables create for Scotland. The sector supports an estimated 7,500 jobs in Scotland, generating more than £3 billion in turnover in 2015.”*

#### Onshore Wind Policy Statement

- 6.3.7 The Scottish Energy Strategy was accompanied by the Scottish Government’s Onshore Wind Energy Policy Statement. This document further emphasises the role of the onshore wind sector in contributing to the Scottish Economy, and to the Government targets for the generation of energy from low carbon technologies.

- 6.3.8 The statement recognises the need for more onshore wind development and capacity, and also acknowledges the challenges facing the industry in a subsidy free world. The Statement notes that the Scottish Government acknowledge the ongoing developments in technology and supports the delivery of large wind turbines in landscapes judged to be capable of accommodating them without significant adverse effects. This is advocated to maximise the benefits of projects and to increase the efficiency of turbines, and to maximise contributions to targets.

## 6.4 The Climate Emergency

### The Scottish Government

- 6.4.1 At the SNP Conference in April 2019, Scotland's First Minister Nicola Sturgeon declared a Climate Emergency:

*"As First Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it."*

- 6.4.2 In May 2019 the Scottish Government formally declared a Climate Emergency. In a speech to the Scottish Parliament, the Climate Change Secretary Roseanna Cunningham stated:

*"There is a global climate emergency. The evidence is irrefutable. The science is clear. And people have been clear: they expect action."*

- 6.4.3 The declaration of a Climate Emergency resulted in amendments to the Climate Change Bill, now the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, committing Scotland to a legally binding 2045 target for net-zero emissions.

- 6.4.4 The Minister also highlighted the important role of the planning system in achieving climate change objectives:

*"...the next National Planning Framework and review of the Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals."*

### The Highland Council

- 6.4.5 On 9 May 2019, The Highland Council (THC) declared a Climate Emergency, following the lead of the Scottish Government. The declaration stated:

*"Highland Council recognises the serious and accelerating changes to the world caused by climate change and therefore declares a climate and ecological emergency."*

- 6.4.6 The declaration from THC committed the Highland Council area to achieving the target of being carbon-neutral by 2025.

## 6.5 National Planning Policy

### National Planning Framework 3

- 6.5.1 The National Planning Framework 3 (NPF3) was laid in the Scottish Parliament on 23 June 2014 and is currently under review. This framework sets out a long-term vision for the development of Scotland, with a focus on supporting sustainable economic growth and the transition to a low carbon economy. NPF3 is the spatial framework that informs development and investment decisions of the Scottish Government and guides Scotland's spatial development over the next 20 to 30 years.

- 6.5.2 The central vision of NPF3 is set out over four key aspects:

- A successful, sustainable place;
- A low carbon place;
- A natural, resilient place; and
- A connected place.

- 6.5.3 Paragraph 1.3 explains that the spatial strategy of the framework supports this vision by identifying 'where there will be opportunities for growth and regeneration, investment

in the low carbon economy, environmental enhancement and improved connections across the country’.

- 6.5.4 In setting out strategic development priorities to support the Scottish Government's central purpose of promoting sustainable economic growth, the NPF3 seeks to encourage a greener Scotland. A key aim of the framework is that ‘Natural and cultural assets are respected, they are improving in condition and represent a sustainable economic, environmental and social resource for the nation. Our environment and infrastructure have become more resilient to the impacts of climate change’ (Paragraph 1.2).
- 6.5.5 NPF3 is committed to achieving a low carbon place and seeks to achieve at least an 80% reduction in greenhouse gas emissions by 2050. Additionally, NPF3 aims to reduce the total final energy demand by 12% by 2020. Within this, the target is for 30% of overall energy demand (heat, transport and electricity) to be from renewables by 2020, including generating the equivalent of at least 100% of gross electricity consumption from renewables, with an interim target of 50% by 2015.
- 6.5.6 Paragraph 3.23 of NPF3 states the Scottish Government’s position that ‘onshore wind will continue to make a significant contribution to diversification of energy supplies’, but notes the role of Scottish Planning Policy (SPP) in setting out the approach to preparing spatial frameworks which will guide wind farm development to appropriate locations. It also states the Scottish Government’s position that wind farms should be avoided in National Parks and National Scenic Areas. In line with the reduction of social and spatial inequalities in Scotland, NPF3 aims to achieve at least 500MW of renewable energy in community and local ownership by 2020 and work to secure greater benefits from commercial-scale developments.

#### Scottish Planning Policy

- 6.5.7 Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers’ priorities for the operation of the planning system and for the development and use of land.
- 6.5.8 This document sets out four planning outcomes which explains how planning should support the vision of the Scottish Government:
- A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places;
  - A low carbon place – reducing our carbon emissions and adapting to climate change;
  - A natural, resilient place – helping to protect and enhance our natural and cultural assets and facilitating their sustainable use; and
  - A more connected place – supporting better transport and digital connectivity.
- 6.5.9 The principal and relevant subject policies contained in the consolidated SPP are listed in Table 6.1.

**Table 6.1: Scottish Planning Policy**

Subject	SPP Paragraph	Summary
<b>Sustainability</b>	Paragraphs 22 – 35	<p>The SPP's central purpose is to focus Government and public services on creating a more successful country through increasing sustainable economic growth.</p> <p>This can be achieved through the planning system by supporting economically, environmentally and socially sustainable places and responding to economic issues, challenges and opportunities.</p> <p>SPP states that policies and decisions should be guided by a number of key principles. These include the following:</p> <ul style="list-style-type: none"> <li>• Supporting delivery of energy infrastructure;</li> <li>• Supporting climate change mitigation and adaptation including taking account of flood risk activity;</li> <li>• Protecting, enhancing and promoting access to cultural heritage, including the historic environment;</li> <li>• Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment; and</li> <li>• Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.</li> </ul>
<b>Placemaking</b>	Paragraphs 36 – 57	<p>Placemaking is a creative, collaborative process that includes design, development, renewal or regeneration of our urban or rural built environments. Planning should take every opportunity to create high quality places by taking a design-led approach through the joint consideration of the relationships between higher quality places. Placemaking is supported through, amongst others, optimising the use of existing resources, using land within or adjacent to settlements for a mix of uses, developing brownfield land and locating development where investment in growth or improvement would have most benefit.</p>
<b>Promoting Rural Development</b>	Paragraphs 74 – 91	<ul style="list-style-type: none"> <li>• Promote a pattern of development that is appropriate to the character of the</li> </ul>

Subject	SPP Paragraph	Summary
		<p>particular rural area and the challenges it faces;</p> <ul style="list-style-type: none"> <li>• Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and</li> <li>• Support an integrated approach to coastal planning.</li> </ul>
<b>Valuing the Historic Environment</b>	Paragraphs 135 – 151	<p>Recognises that the historic environment is a key cultural and economic asset for which planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places. Planning authorities should safeguard designated and non-designated historic environments including individual assets such as scheduled monuments and archaeological resources; related settings and the wider cultural landscape. The Government's Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series, both published by Historic Scotland, should also be taken into account for development.</p>
<b>Delivering Heat and Electricity</b>	Paragraphs 152 – 174	<p>Sets out the Scottish Ministers' commitment to increasing the amount of electricity generated from renewable sources. The targets for 2020 are: for 30% of overall energy demand from renewable sources; 11% of heat demand from renewable sources; and the equivalent of 100% of electricity demand from renewable sources. SPP paragraphs 161 – 166 which relate specifically to onshore wind developments are discussed in more detail in paragraphs 6.5.12 to 6.5.14 of this chapter.</p>
<b>Valuing the Natural Environment</b>	Paragraphs 193 – 218	<p>Indicates that planning authorities should conserve and enhance international, national and locally designated sites and protected species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities. Plans should address potential effects of development on the natural environment and authorities should apply the precautionary principle where the impacts of a proposed development</p>

Subject	SPP Paragraph	Summary
		on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur.
<b>Flood Risk and Drainage</b>	Paragraphs 254 – 268	Sets out a precautionary approach to flood risk from all sources by safeguarding flood storage and conveying capacity. Planning authorities are required to take into account probability of flooding and associated risks when determining planning applications and preparing development plans, and developers should take flood risk into account prior to committing to development.
<b>Promoting Sustainable Transport and Active Travel</b>	Paragraphs 269 – 291	Sets out the planning policy on sustainable transport to optimise the use of existing infrastructure and reduce the need to travel by providing safe and convenient opportunities for walking, cycling and travel by public transport. Development plans and development management decisions should also take account of the implications of development proposals on traffic, patterns of travel and road safety.

6.5.10 SPP states at paragraph 154 that the planning system should:

- Support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:
  - 30% of overall energy demand from renewable sources by 2020;
  - 11% of heat demand from renewable sources by 2020; and
  - The equivalent of 100% of electricity demand from renewable sources by 2020.

6.5.11 Paragraph 155 of the SPP advises that development plans should seek to ensure that an area's full potential for renewable energy is achieved, giving due regard to relevant environmental, community and cumulative impact considerations. Paragraph 156 states that strategic development plans should support national priorities and address cross boundary issues.

6.5.12 Onshore wind is discussed in paragraphs 161 to 166 and advises that planning authorities should set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities.

6.5.13 Table 1 sets out three groups:

- Group 1 contains areas where wind farms will not be accepted, i.e. National Parks and National Scenic Areas;
- Group 2 lists areas of significant protection. In these areas wind farms may be acceptable in some circumstances – subject to the demonstration that any



significant effects on the protected qualities of these areas can be substantially overcome by siting, design or other mitigation; and

- Group 3 includes sites that would be acceptable for wind farms subject to detailed consideration against identified policy criteria.

6.5.14 SPP advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms. Consideration will be given to the following (list not exhaustive):

- Landscape and visual impacts, including effects on wild land;
- The scale of contribution to renewable energy generation targets;
- Effects on the natural heritage, including birds;
- Impacts on aviation and defence interests and seismological recording;
- Effects on hydrology, the water environment and flood risk; and
- Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

## 6.6 Development Plan Framework

6.6.1 The Proposed Development lies wholly within THC area. The adopted development plan comprises the Highland-Wide Local Development Plan (HwLDP) (adopted 5 April 2012).

6.6.2 THC initially progressed a review of the HwLDP by publishing a Main Issues Report (MIR) for consultation in 2016. THC subsequently postponed the review of the HwLDP in light of the publication of the Planning Bill (now Act). There is no published timescale for the next review of HwLDP.

6.6.3 Part of the Proposed Development lies within the boundary of the Inner Moray Firth Local Development Plan (IMFLDP) (adopted 31 July 2015). IMFLDP is relevant in so far as part of the site is located within the IMFLDP area. The IMFLDP is largely focused on development within settlements and there are no provisions or policies which are contrary to those contained within the HwLDP. Accordingly, the HwLDP still remains as the key Development Plan Document.

6.6.4 Part of the Proposed Development lies within the area covered by the West Highland and Islands Local Development Plan (WestPlan) (adopted 30 September 2019). WestPlan's focus is predominantly on settlements within the Plan area and there are no provisions or policies which are directly relevant to the Proposed Development, or which counter those contained within the HwLDP. Accordingly, the HwLDP still remains as the key Development Plan document.

### Highland-Wide Local Development Plan

6.6.5 The guiding vision of the HwLDP is:

*"By 2030, Highland will be one of Europe's leading regions. We will have created sustainable communities, balancing population growth, economic development and the safeguarding of the environment across the area, and have built a fairer and healthier Highlands."*

6.6.6 The vision provides an extensive list of how planning will help achieve this, including:

- Ensuring that development of renewable energy resources are managed effectively with clear guidance on where renewable energy developments should and should not be located;
  - Taking a lead in reducing the amount of greenhouse gases released into the air, adapted to the effects of climate change and limited the amount of non-renewable resources development uses;
  - Providing opportunities which encourage economic development and create new employment across the area focusing on the key sectors of... renewable energy, whilst at the same time improving the strategic infrastructure necessary to allow the economy to grow over the long term; and
  - Promoting opportunities that allow for investment in services and infrastructure, and opportunities for investment and diversification in the economy, in our deprived areas and areas at risk of long-term unemployment as a result of changes in the wider economy.
- 6.6.7 The key HwLDP policy in relation to the Proposed Development is Policy 67 – Renewable Energy Developments. This policy states that renewable energy development proposals should be well related to the source of the primary renewable resources that are needed for their operation.
- 6.6.8 Policy 67 states that when considering renewable energy proposals, THC will assess:
- The contribution of the proposed development towards meeting renewable energy generation targets;
  - Any positive or negative effects the development is likely to have on the local and national economy;
  - Compliance with other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other material considerations; and
  - Benefits including by making effective use of existing and proposed infrastructure or facilities.
- 6.6.9 THC will support proposals where it is satisfied they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments, having regard to any significant effects on the following:
- Natural, built and cultural heritage features;
  - Species and habitats;
  - Visual impact and impact on the landscape character of the surrounding area (the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations);
  - Amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary);
  - The safety and amenity of any regularly occupied buildings and the grounds that they occupy, having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;
  - Ground water, surface water (including water supply), aquatic ecosystems and fisheries;

- The safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;
- Other communications installations or the quality of radio or TV reception;
- The amenity of users of any Core Path or other established public access for walking, cycling or horse riding;
- Tourism and recreation interests; and
- Land and water-based traffic and transport interests.

6.6.10 Policy 67 also states that in all cases where consent is granted, the Council will:

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

6.6.11 Further guidance is provided by The Onshore Wind Energy Supplementary Guidance.

6.6.12 Other policies of note are as follows in Table 6.2:

**Table 6.2: HwLDP Policies**

HwLDP Policy	Summary
<p><b>Policy 28 – Sustainable Design</b></p>	<p>Policy 28 sets out the requirement for all development to be designed in the context of sustainable development and climate change. The Policy sets out criteria which proposed developments are to be assessed against. The following are relevant to the Proposed Development, which should:</p> <ul style="list-style-type: none"> <li>• Maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy and heat;</li> <li>• Address any physical constraints described in Physical Constraints on Development: Supplementary Guidance;</li> <li>• Demonstrate that they have sought to minimise the generation of waste during the construction and operational phases;</li> <li>• Minimise impact on individual and community residential amenity;</li> <li>• Minimise impact on non-renewable resources such as mineral deposits of potential commercial value, prime quality agricultural land, or approved routes for road and rail links;</li> <li>• Minimise impact on the following resources, including pollution and discharges, particularly within designated areas such as habitats, freshwater systems, species, marine systems, landscape, cultural heritage, scenery, air quality;</li> <li>• Demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials; and</li> <li>• Contribute to the economic and social development of the community.</li> </ul> <p>Policy 28 further states that all developments should:</p> <ul style="list-style-type: none"> <li>• Conserve and enhance the character of the Highland area;</li> </ul>

HwLDP Policy	Summary
	<ul style="list-style-type: none"> <li>• Use resources efficiently;</li> <li>• Minimise the environmental impact of development; and</li> <li>• Enhance the viability of Highland communities.</li> </ul>
<b>Policy 30 – Physical Constraints</b>	Policy 30 sets out how various physical and technical factors, including those that affect public health and safety, need to be assessed when considering development proposals.
<b>Policy 36 – Development in the Wider Countryside</b>	Policy 36 states that renewable energy development proposals will be assessed against the Renewable Energy Policies, the non-statutory Highland Renewable Energy Strategy and, where appropriate, Onshore Wind Energy: Supplementary Guidance.
<b>Policy 51 – Trees and Development</b>	Policy 51 outlines how THC will promote significant protection to existing hedges, trees and woodlands on and around development sites.
<b>Policy 55 – Peat and Soils</b>	<p>Policy 55 sets out that development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal.</p> <p>Where development on peat is clearly demonstrated to be unavoidable then THC may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated. Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland.</p>
<b>Policy 56 - Travel</b>	Policy 56 states that development proposals that involve travel generation must include sufficient information with the application to enable THC to consider any likely on-site and off-site transport implications of the development.
<b>Policy 57 – Natural, Built, and Cultural Heritage</b>	<p>Policy 57 seeks to protect natural, built and cultural heritage of varying types and importance, and sets out criteria to be applied to the consideration of proposed development:</p> <ul style="list-style-type: none"> <li>• For features of local / regional importance THC will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource;</li> <li>• For features of national importance THC will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services; and</li> <li>• For features of international importance, developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where THC are unable to ascertain that a proposal will not adversely affect the integrity of a site, they will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature.</li> </ul>

HwLDP Policy	Summary
	<p>Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where THC are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the Development Plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.</p>
<p><b>Policy 58 – Protected Species</b></p>	<p>Policy 58 applies where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development. THC require a survey to be carried out to establish any such presence and if necessary a mitigation plan to avoid or minimise any impacts on the species, before determining the application.</p>
<p><b>Policy 59 – Other Important Species</b></p>	<p>Policy 59 states that THC will have regard to any adverse effects of development proposals, either individually and / or cumulatively, on certain species identified in the policy.</p>
<p><b>Policy 60 – Other Important Habitats and Article 10 Features</b></p>	<p>Policy 60 states that THC will seek to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat “stepping stones” for the movement of wild fauna and flora (Article 10 Features). The Council will also seek to create new habitats which are supportive of this concept.</p> <p>The policy further states that THC will have regard to the value of the following 'Other Important Habitats', where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and / or cumulatively. These 'Other Important Habitats' include:</p> <ul style="list-style-type: none"> <li>• Habitats listed in Annex I of the EC Habitats Directive;</li> <li>• Habitats of priority and protected bird species;</li> <li>• Priority habitats listed in the UK and Local Biodiversity Action Plans; and</li> <li>• Habitats included on the Scottish Biodiversity List.</li> </ul> <p>THC will use conditions and agreements to ensure that significant harm to the ecological function and integrity of Article 10 Features and Other Important Habitats is avoided.</p> <p>Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the THC will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation.</p>
<p><b>Policy 61 – Landscape</b></p>	<p>Policy 61 states that new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed – including consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue.</p>

HwLDP Policy	Summary
<b>Policy 62 - Geodiversity</b>	Policy 62 states development proposals that include measures to protect and enhance geodiversity interests of international, national and regional / local importance in the wider countryside will be supported.
<b>Policy 63 – Water Environment</b>	The Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (2000/60/EC), aimed at the protection and improvement of Scotland’s water environment.
<b>Policy 64 – Flood Risk</b>	Policy 64 seeks to direct development proposals to avoid areas susceptible to flooding, and promote sustainable flood management.
<b>Policy 66 – Surface Water Drainage</b>	All proposed development must be drained by Sustainable Drainage Systems (SuDS) designed in accordance with The SuDS Manual (CIRIA C697) and, where appropriate, the Sewers for Scotland Manual 2nd Edition.
<b>Policy 69 – Electricity Transmission Infrastructure</b>	Policy 69 sets out how THC will consider proposals for overground, underground or sub-sea electricity transmission infrastructure (including lines and cables, pylons / poles and vaults, transformers, switches and other plant) as having regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption.
<b>Policy 77 – Public Access</b>	<p>Policy 77 states that where a proposal affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights, then THC will require it to either:</p> <ul style="list-style-type: none"> <li>• Retain the existing path or water access point while maintaining or enhancing its amenity value; or</li> <li>• Ensure alternative access provision that is no less attractive, is safe and convenient for public use, and does not damage or disturb species or habitats.</li> </ul>

## 6.7 Supplementary Guidance

### Onshore Wind Energy Supplementary Guidance

- 6.7.1 THC has prepared Supplementary Guidance (SG) which sets out how THC will manage onshore wind energy development proposals in line with Section 22 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 6.7.2 This current suite of adopted SG documents for Onshore Wind Energy is referred to as the “Onshore Wind Energy Supplementary Guidance, November 2016 (with addendum, December 2017)” and comprises:
- Onshore Wind Energy Supplementary Guidance, November 2016; and
  - Addendum Supplementary Guidance: ‘Part 2b’, December 2017.
- 6.7.3 The SG builds upon the positive stance towards renewable energy set out in the HwLDP. It acknowledges the positive effects of renewable energy development in terms of addressing climate change issues and social and economic benefits to communities. The SG states:

*“The Highland Council is supportive of renewable energy development and their potential for schemes to deliver effective climate change mitigation, subject to careful balancing with the aspects discussed in this Guidance.”*

- 6.7.4 Section 2 – Highland Spatial Framework sets out a spatial framework for onshore wind energy development that applies to all development proposals with individual turbines with a height of 50 metres and above to blade tip or more than one turbine with a height of 30 metres and above to blade tip. The spatial framework accords with the provisions of SPP set out above, and identifies areas likely to be the most appropriate for wind farm development.
- 6.7.5 Section 4 – Key Development Plan Considerations sets out how important features and assets identified in HwLDP are expected to be safeguarded in relation to onshore wind energy development. This provides additional guidance in terms of the siting and design of wind turbines and wind farms, and avoiding significant landscape and visual effects.
- 6.7.6 Section 5 – Highland Strategic Capacity sets out how THC is assessing the strategic capacity for wind energy development across the Highland geographical area.

#### Flood Risk and Drainage Supplementary Guidance

- 6.7.7 THC’s Flood Risk and Drainage Supplementary Guidance (adopted January 2013) provides technical guidance to ensure that appropriate development takes place in appropriate locations free from unacceptable flood risk and is not liable to exacerbate flood risk elsewhere.

#### Protected Species Supplementary Guidance

- 6.7.8 THC’s Protected Species Supplementary Guidance (adopted March 2013) provides guidance on developer’s responsibilities and sets out key species to be aware of and the varying levels of protection afforded to them, and how they should be dealt with in a development proposal to avoid breaking the law and to further the conservation of biodiversity.

#### Sustainable Design Supplementary Guidance

- 6.7.9 THC’s Sustainable Design Supplementary Guidance (adopted January 2013) accompanies and supports the approach to sustainability and design within the HwLDP, particularly in relation to Policies 28 & 29. It is based on four key sustainable design principles:
- Conserving and enhancing the character of the Highland area;
  - Using resources efficiently;
  - Minimising the environmental impact of development; and
  - Enhancing the viability of Highland communities.

#### Special Landscape Areas Citations Supplementary Guidance

- 6.7.10 THC’s Special Landscape Areas Citations Supplementary Guidance (published June 2011) is useful in understanding the Proposed Development’s potential impact on Special Landscape Areas (SLAs) – particularly the Loch Ness and Duntelchaig SLA. The purpose of this document is to assist in the determination of planning applications by providing background on the SLAs and support HwLDP Policy 58.

## 6.8 Cairngorms National Park

6.8.1 It is highlighted that the Cairngorms National Park (“the National Park”) Authority are the neighbouring planning authority, and a consultee to the application insofar as any indirect effects need to be considered against the policy framework for the National Park.

6.8.2 Whilst it is acknowledged that the proposals are not located in the National Park, dialogue with consultees during Scoping, the Gate Check and stakeholder engagement process has highlighted the need to consider aspects of the policy and guidance applicable to the National Park and specifically in considering its setting and special qualities.

### Cairngorms National Park Partnership Plan

6.8.3 The Cairngorms National Park Partnership Plan (CNPPP) is the overarching management plan for the Cairngorms National Park. The plan was published and came in to effect in 2017, and sets the context for the next level of policy and guidance through the HwLDP. The CNPP documents the primary aims of the park, and aligns this with those contained in the National Parks (Scotland) Act 2000:

- To conserve and enhance the natural and cultural heritage of the area;
- To promote sustainable use of the natural resources of the area;
- To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- To promote sustainable economic and social development of the area’s communities.

6.8.4 The Plan also reiterates the national priorities which National Parks seek to deliver:

- Climate change mitigation;
- Reversing the loss of biodiversity;
- Natural capital;
- Parks for all;
- Active Scotland;
- Community empowerment; and
- Sustainable economic growth.

6.8.5 The Conservation policy framework within the CNPPP highlights the long-term outcome as being a special place for people and nature with natural and cultural heritage enhanced. Policy 1.3 is of relevance and seeks to:

*“Conserve and enhance the special landscape qualities with a particular focus on:*

- a. conserving and enhancing wildness qualities;*
- b. maintaining and promoting dark skies;*
- c. enhancements that also deliver habitat improvements;*
- d. enhancing opportunities to enjoy and experience the landscapes of the Park;*
- e. applying a presumption against new constructed tracks in open moorland.”*

6.8.6 Under the Rural Development Framework within the CNPPP, Policy 3.3 seeks to support the development of a low carbon economy, with a particular focus on:

*“a. increasing renewable energy generation, especially biomass and hydro, that is compatible with conserving the special qualities of the National Park and maintaining the*



*integrity of designated sites. Large-scale wind turbines are not compatible with the landscape character or special landscape qualities of the National Park. They are inappropriate within the National Park or where outside the Park they significantly adversely affect its landscape character or special landscape qualities;*

*b. supporting businesses and communities to use less energy, reduce emissions, improve the energy efficiency of existing buildings, generate low impact renewable energy, reduce, reuse and recycle resources, and plan for a changing climate;*

*c. maximising the benefits to communities through direct use of locally generated energy or, where sold to the grid, reinvesting income to support community development;*

*d. promoting high standards of sustainable design and efficient use of energy and materials in construction.”*

Cairngorms National Park Local Development Plan 2015

6.8.7 The Cairngorms Local Development Plan was adopted in March 2015. The relevant policies to be considered in terms of the potential for any adverse effects from onshore wind development in neighbouring areas are as follows:

6.8.8 Policy 5: Landscape - *“There will be a presumption against any development that does not conserve and enhance the landscape character and special qualities of the Cairngorms National Park including wildness, and in particular, the setting of the proposed development...proposed development will only be permitted where:*

*a) any significant adverse effects on the landscape character of the Park are clearly outweighed by social or economic benefits of national importance; and*

*b) all the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction to the satisfaction of the planning authority.”*

6.8.9 Policy 7: Renewable Energy sets out a framework for all renewables developments and specific requirements for different technologies:

*“1. All renewables developments: Proposals for renewable energy generation will be considered favourably where:*

*a) they contribute positively to the minimisation of climate change;*

*b) they complement the sustainability credentials of the development;*

*c) they conserve and enhance the special qualities of the Park;*

*d) they include appropriate means of access and traffic management;*

*e) they adequately minimise all cumulative effects.*

*Financial bonds will be used where appropriate to secure decommissioning and site restoration.*

*3. Wind Energy: In addition, all wind energy proposals must adequately minimise:*

*a) all noise impacts from the development;*

*b) all shadow flicker caused as a result of the development;*

*c) the impact of the development on all aviation interests.*

*Large-scale commercial wind turbines are not compatible with the special qualities of the National Park and are not considered to be appropriate.”*

6.8.10 Large scale turbines are defined as being greater than 30m to tip.

Cairngorms National Park Proposed Local Development Plan 2020

6.8.11 The replacement Local Development Plan is in the process of being progressed towards adoption. The proposed Local Development Plan (LDP) was consulted upon between January and February 2019, and is entering the examination process at the time of writing. The content of the Proposed LDP is of relevance and the key policies of note are the same as in the currently adopted 2015 LDP, with minor changes to wording as follows:

- Policy 5: Landscape – same as the current policy, however with an additional section to address the potential effects of access tracks and roads.
- Policy 7: Renewable Energy – same as current policy with the exception of Part 1, where the addition of Criterion f) refers to the need to minimise detrimental impacts on local air quality. Part 3 Wind Energy remains unchanged.

## **6.9 Concluding Statement**

6.9.1 This Planning Chapter has identified the relevant planning policy considerations for the Proposed Development. It is important to note that this Chapter does not include an assessment of the Proposed Development's compliance with the policy framework.

6.9.2 Further details of the planning decision making framework, and extent to which the Proposed Development satisfies this framework, are included within the Planning Statement. The Planning Statement has been submitted as part of the application package, but does not form part of the EIA Report.

## 6.10 References

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