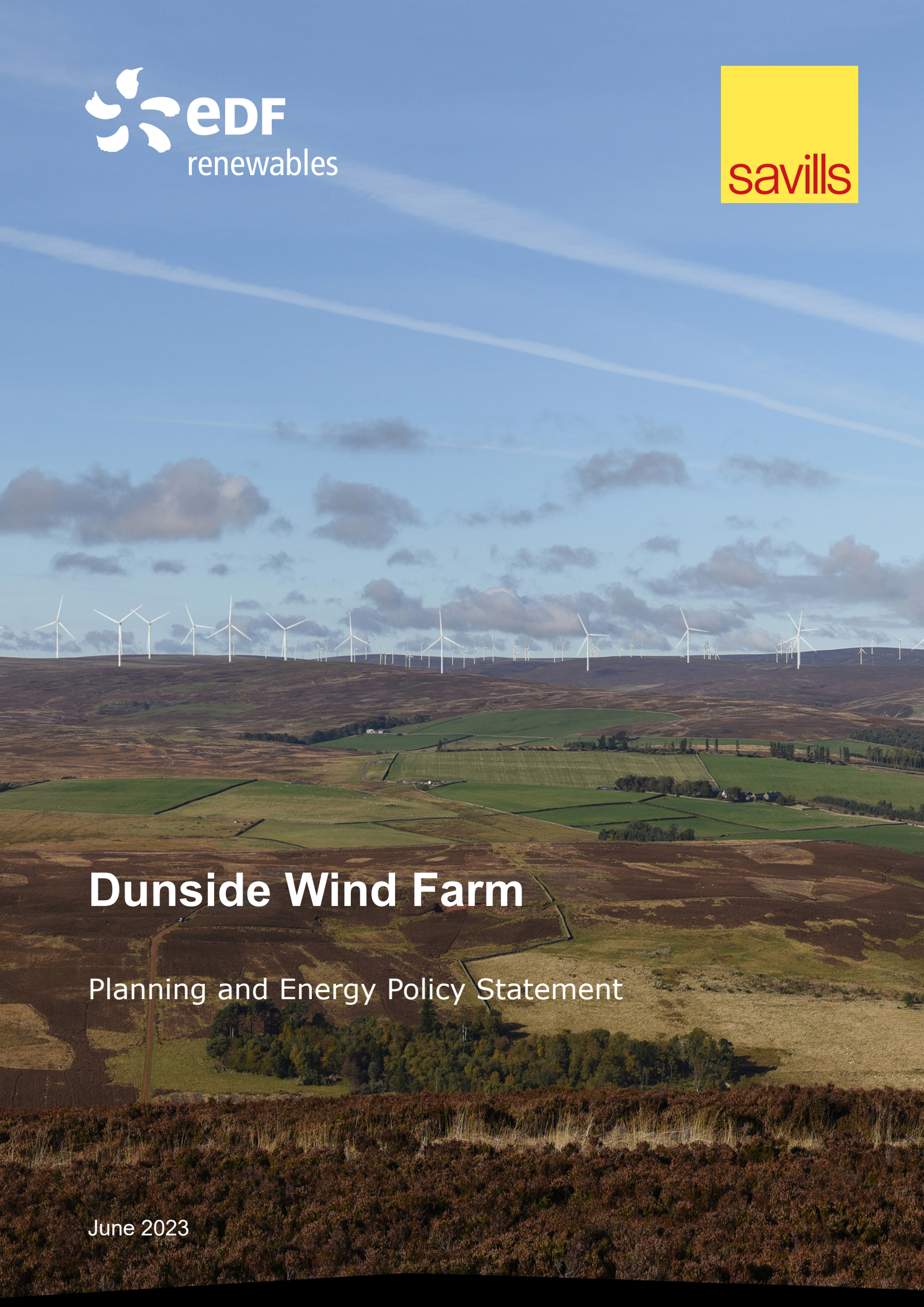

Dunside Wind Farm

Planning and Energy Policy Statement

June 2023

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Planning and Energy Policy Statement

Contents

1. Introduction

1.1. Introduction

1.1.1. This Planning and Energy Policy Statement has been prepared by Savills UK Limited on behalf of EDF Energy Renewables Ltd (the Applicant). It supports an application to the Scottish Ministers under Section 36 (S36) of the Electricity Act 1989[i] (the Electricity Act) for a development comprising up to 15 wind turbines (each with a maximum tip height of 220 metres (m)), a battery storage area, an extension to the existing Fallago Rig substation, and associated access and infrastructure, to be known as Dunside Wind Farm and hereafter referred to as 'the Proposed Development'.

1.1.2. The Proposed Development will have an installed capacity of more than 50 Megawatts (MW). A general description is set out in Chapter 1: 'Introduction' of the Environmental Impact Assessment Report (EIA Report) with individual components described in detail in EIA Report Chapter 3: 'Development Description'.

1.1.3. This Statement accompanies the EIA Report for the Proposed Development. It does not form part of the EIA Report, but draws upon its findings to inform conclusions on planning and energy policy matters. It also draws from the findings of the standalone Socio-Economic and Tourism Assessment (socio-economic effects having been scoped out of the EIA).

1.1.4. As part of the S36 process, the Applicant is also seeking that Scottish Ministers issue a Direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997[ii] (the Planning Act), as amended, that deemed planning permission also be granted for the Proposed Development. Dunside Wind Farm is proposed to have an operational life of 35 years from the date of final commissioning.

1.1.5. This Statement provides an assessment of the Proposed Development against relevant energy policy, national planning policy, local planning policy and associated supplementary guidance and other material considerations. There is no 'primacy' of the Development Plan in an application made under the Electricity Act, as would be the case for an application under the Planning Act. Rather, weight can be attributed by the decision maker to all material considerations including the various levels of national and local energy- and planning-related policy and guidance as deemed appropriate.

1.1.6. This Statement assesses the acceptability of the Proposed Development in land use and planning policy terms in light of the residual impacts identified in the EIA Report. It also gives consideration to energy policy and other objectives, concluding with considered comments about the overall acceptability of the Proposed Development in the context of the full range of material considerations.

1.2. Structure of the Statement

1.2.1. This Statement is set out in sections. Following this introductory section, subsequent sections are set out as follows:-

- Section 2 discusses the Electricity Act, specifically Schedule 9;
- Section 3 describes the Site and the Proposed Development and summarises its key benefits;
- Section 4 discusses energy legislation and policy matters and considers the Proposed Development with reference to relevant renewable energy generation and greenhouse gas reduction targets;

- Section 5 assesses the Proposed Development against the relevant policies of the Development Plan;
- Section 6 outlines other material considerations of relevance to the Proposed Development; and
- Section 7 weighs up the case for the Proposed Development providing concluding remarks on its overall acceptability, having regard to all material factors.

2. Electricity Act – Schedule 9

2.1.1. A decision on this S36 application under the Electricity Act is the principal decision to be made in this case. EDF Energy Renewables Ltd holds a generating licence under the terms of the Electricity Act. In formulating any relevant proposals, paragraph 3(1) of Schedule 9 requires that a licence holder:

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'.*

2.1.2. As detailed in paragraph 3(2)(a) of Schedule 9, the Scottish Ministers as decision maker are required to have regard to the desirability of preserving or protecting the matters mentioned in paragraph 3(1)(a) and, the extent to which a licence holder has complied with his duty under paragraph 3(1)(b). It is relevant to note that this part of the Electricity Act does not require Applicants to specifically avoid impacts from arising upon the identified interests, nor does it impose a duty upon Scottish Ministers to only approve those developments that avoid such impacts from arising. The acceptability of identified environmental impacts and the extent to which these have been mitigated is a matter of planning judgement, taking account of a range of issues including planning policy and renewable energy generation targets.

2.1.3. In this case, through the design evolution and the EIA process, the Applicant has sought to avoid significant environmental impacts arising from the Proposed Development and to then mitigate those that have been identified as far as reasonably possible. As such, the Applicant has complied with his duties under paragraphs 3(1)(a) and 3(1)(b). The Applicant has also sought to avoid impacting on fish stocks in any waters as per paragraph 3(3) of Schedule 9.

3. The Site and Proposed Development

3.1. Site Description

3.1.1. The Site extends to around 2,006 hectares (ha) and is located in the Scottish Borders, around 6 kilometres (km) north of Westruther and 7 km west of Longformacus (EIA Report Figure 1.1). The northern boundary of the Site is coincidental with the administrative boundary between Scottish Borders Council and East Lothian Council.

3.1.2. The topography of the Site consists of a plateau of rolling hills ranging between 300 metres (m) and 500 m Above Ordnance Datum (AOD), separated by the steep sided valley of the Dye Water which runs west-east through the Site. The Dye Water is a tributary of the River Tweed. Multiple smaller watercourses join the Dye Water and further dissect the Site - these small watercourses are generally oriented north-south, and include Green Cleugh, Wood Cleugh, Kersons Cleugh, and Foul Cleugh. Notable hills within the Site include Meikle Law (468 m AOD) in the north-west; Byrecleugh Ridge (440 m AOD) in the north; Dunside Hill (437 m AOD) in the south-east; and, Wedder Lairs (486 m AOD) in the west.

3.1.3. The landcover on the Site consists mainly of heather moor and acid grassland. Tree cover is sparse, especially so on the upper plateau where heather moorland vegetation dominates. Large areas of the Site have been managed for shooting, and the patchy growth pattern of the vegetation reflects the distribution of muirburn (the controlled burning of moorland vegetation to encourage new growth).

3.1.4. As noted above, the closest settlements to the Site are Westruther, which is on the B6456 to the south, and Longformacus, which is on the minor road which crosses the Lammermuir Hills to the east. The B6355 runs broadly parallel to this minor road, and the two join at Wanside Rig to the north of the Site. There is a cluster of dwellings at Byrecleugh in the east of the Site, accessed via a private track and minor road from Longformacus. Other residential properties within 2-3 km of the site include Trottingshaw and Dye Cottage to the east and Killpallet to the north.

3.1.5. The Site falls wholly within the Lammermuir Hills Special Landscape Area (SLA) and sits on the southern border of the Lammermuir Moorland SLA in East Lothian. Additional SLAs in proximity to the Site include: Lammer Law, Hopes to Yester SLA; Whiteadder SLA; and, Danskine to Whitecastle SLA.

3.1.6. The Dye Water forms part of the River Tweed Special Area of Conservation (SAC). There are no other statutory nature conservation designations within the boundary of the Site. There are two Local Biodiversity Sites (non-statutory) within the Site boundary.

3.1.7. There are four Scheduled Monuments and one Listed building (Category C) within the Site boundary. The closest Gardens and Designed Landscapes (GDLs) are at Thirlestane Castle and at Yester House, both beyond 8 km from the nearest proposed wind turbine location.

3.1.8. The SNH (now NatureScot) Carbon & Peatland Map[iii] indicates that there are no Class 1 or 2 nationally important, priority peatlands within the Site boundary. The mapping shows large areas of the high ground in the north and south of the Site are Class 5 peatland, with smaller areas of Class 4 peatland at lower elevations. The steepest slopes are classed as non-soil and the lower lying areas of the Site, around the river valleys, are mapped as mineral soil, with no peat indicated.

3.1.9. The Peat Survey Results (EIA Report Appendix 8.2) show that less than one fifth of the peat probes undertaken recorded a peat depth of over 0.5m. The condition of the majority of peat across the Site was found to be poor with muirburn, animal trampling/grazing, and drainage causing much of the peat surveyed to be dry and eroding.

3.1.10. As shown on EIA Report Figure 3.13, the Southern Upland Way (SUW) runs approximately 0.8 kilometres (km) to the south of the nearest proposed turbine location and shares a section of the proposed access track (the existing Fallago Rig Wind Farm access track) for approximately 700 m to the east of Twin Law. Three Scottish Hill Tracks, one Heritage Path (known as Herring Road) and numerous Public Rights of Way are also located close to or within the Site boundary.

3.1.11. As listed in EIA Report Table 4.7, there are a number of operational, consented and proposed wind farm schemes within the wider context of the Site. The closest operational wind farm is Fallago Rig, which lies immediately to the north-west of the Site boundary. The access track to Fallago Rig Wind Farm runs through the Site, along the Dye Water valley. It has been operated by the Applicant since July 2013, comprises 48 turbines and has an installed capacity of 144 MW.

3.2. The Proposed Development

3.2.1. The Proposed Development will comprise the construction, 35 year operation and subsequent decommissioning of up to 15 wind turbines, a battery storage area and associated infrastructure, with an overall generating capacity in excess of 50 MW.

3.2.2. As described in EIA Report Chapter 3: ‘Development Description’, the main components of the Proposed Development comprise:-

- Up to 15 wind turbines, each with a maximum tip height of 220 m and an external transformer kiosk;
- Crane hardstandings adjacent to each turbine position;
- Three new watercourse crossings;
- Approximately 15 km of new wind farm tracks and approximately 1.1 km of new light vehicle track (between wind turbines T1 and T2 to the north of the Site);
- Approximately 17.5 km of existing access tracks, to be widened/upgraded as required;
- Onsite underground electrical cables and cable trenches;
- An extension to the existing Fallago Rig substation;
- A battery storage area;
- Four temporary construction compounds (two existing and two proposed);
- Up to three temporary borrow pits; and
- A temporary onsite concrete batching plant located within construction compound CC3.

3.2.3. As detailed in EIA Report Table 3.1, the proposed wind turbines will all have a maximum blade tip height of 220 m. For EIA assessment purposes, each turbine has a nominal capacity of 7.2 MW. However, the final choice of turbine model and the specification of hub height and rotor diameter will be subject to a selection process (prior to construction) considering technical, environmental and commercial aspects.

3.2.4. To comply with Civic Aviation Authority (CAA) policy on the lighting of wind turbines at 150m in height or more, it has been established that visible aviation lighting is needed on seven of the wind turbines: T1, T3, T6, T8, T9, T14 and T15. The CAA-approved lighting strategy is presented as EIA Report Appendix 11.1. In addition, all 15 proposed wind turbines require non-visible infra-red aviation lighting to satisfy Ministry of Defence (MoD) low flying requirements.

3.2.5. It is intended that the proposed turbine locations and all ancillary infrastructure will be subject to a micro-siting tolerance of 100m in any direction, taking into consideration onsite constraints and the findings of detailed site investigation work to be carried out prior to construction. It is anticipated that any wind turbine micrositing of more than 50m would be in consultation with the Environmental Clerk of Works (ECoW) and require written approval from Scottish Borders Council. Regardless of the proposed micro-siting allowance, it is proposed that wind turbines will not be permitted to be moved closer than 1.2 km of the closest residential properties to safeguard residential visual amenity.

3.2.6. The turbines will be constructed on foundations comprising both stone and reinforced concrete, measuring up to 25 m in diameter to a depth of around of 3.5 m. Each turbine foundation will require up to 1,000 m^3 of concrete. The detailed design, sizing and specification for each foundation will depend on the final turbine selected and the ground conditions encountered at each turbine location, which will be confirmed by detailed site investigation post-consent, in the pre-construction period.

3.2.7. Crane hardstandings measuring approximately 50 m x 20 m will be constructed at each turbine location to facilitate the erection of the turbine components using mobiles cranes (EIA Report Figure 3.4). Additional temporary hardstanding areas will be constructed for the secondary crane, and these will measure approximately 19 m x 11 m. The hardstanding areas will be levelled using cut and fill operations and surfaced in crushed stone to provide a durable surface. The main hardstandings will be left in-situ during the operational life of the Proposed Development to facilitate ongoing turbine maintenance.

3.2.8. The Proposed Development will be connected to the national electricity grid network at the Fallago Rig substation. The existing 400kV substation is split into two parts: Scottish Power Transmission operates a switchgear building and 400kV compound and Fallago Rig Wind Farm operates a separate switchgear building and maintenance area. The Proposed Development includes an extension of the existing substation as illustrated on EIA Report Figures 3.1 and 3.6.

3.2.9. A battery storage area, with an indicative capacity of 20 MW, is proposed. The compound will measure approximately 50 m x 40m and be sited to the north-west of the Site, close to the proposed substation extension (see EIA Report Figure 3.1). It is anticipated that the batteries and their ancillary equipment will be contained and bunded within secure metal containers. An indicative arrangement is shown on EIA Figure 3.7.

3.2.10. Four temporary construction compounds will be required to enable construction of the Proposed Development (numbered CC1 to CC4 on EIA Report Figure 3.1). Depending on their size and location, it is envisaged that they will include site offices, staff welfare facilities (mess room, kitchen, WCs, changing and drying rooms), storage and laydown areas for equipment and materials, bunded storage for fuels and oils, and car parking for contractors and visitors. The temporary compounds will be made up of a layer of geo-textile or geo-synthetic material overlain with compacted aggregate material. For security reasons, they will be fenced off with lighting and CCTV installed.

3.2.11. In order to minimise the amount of stone required to be imported, up to three temporary borrow pits may be used, which would be located within the search areas shown on EIA Report Figure 3.1. It is anticipated that stone won from these borrow pits will be used to construct access tracks and hardstanding requirements as well as structural fill beneath turbine foundations. While EIA Report Appendix 3.2 indicates that sufficient aggregate could potentially be won onsite to meet construction requirements, to provide a robust assessment, the Transport Assessment (EIA Report Appendix 10.1), assumes that only 50% of the aggregate required for construction will be sourced onsite.

3.2.12. To minimise traffic movements associated with concrete delivery, onsite concrete batching will be necessary. At this stage, it is anticipated that batching will be undertaken within construction compound CC3 however, the final location will be determined by the appointed principal contractor in due course. Water abstraction required for onsite batching will be carried out under licence from SEPA with relevant regulation/permits obtained by the Applicant.

3.2.13. The Proposed Development will utilise the existing Fallago Rig Wind Farm access, with upgrades/widening as necessary. Access will be taken from the B6456 to the east of Westruther (EIA Report Figure 3.8) and a short section of minor road to Wedderlie, before following the wind farm track northwards for approximately 6 km.

3.2.14. It is anticipated that all abnormal indivisible loads (AILs) and crane trips will originate from Rosyth and access the Site via the M90, A720, A68 and A697 before joining the B6456 near Hyndsidehill. Requirements for any off-site upgrading works to the public road network would follow confirmation of the wind turbine(s) to be procured and be subject to a separate consent.

3.2.15. Within the Site boundary, approximately 17.5 km of existing track (associated with the operation of Fallago Rig Wind Farm) will be utilised. In addition, approximately 15 km of new track and 1.1 km of light vehicle track will be created as part of the Proposed Development. The latter is proposed between wind turbines T1 and T2 to the north of the Site and will be used by maintenance vehicles during the operational period.

3.2.16. Two new sections of 'floating' track are proposed at Upper Knowe between wind turbines T12 and T13, but no peat deeper than 1m is to be crossed by any track infrastructure. It is estimated these two sections will amount to an area of approximately 4,100m^2.

3.2.17. The proposed track layout has also been developed to minimise the number of watercourse crossings. EIA Report Appendix 8.1 indicates that 23 watercourse crossings will be required however, only four of these are new/upgraded. The exact specifications of watercourse crossings will be subject to detailed design prior to construction.

3.2.18. A detailed drainage design will be developed prior to construction and will include a combination of drainage ditches or swales located adjacent to access tracks as well as cross drains at regular intervals. These will discharge to catch pits diffusing the flow to mimic natural conditions within the catchments. Drainage will also be provided at turbine and crane hardstanding locations in order to prevent the build-up of large volumes of water and collect, treat and drain water in an appropriate manner. This will include the use of silt traps, check dams and swales as required by the local hydraulic conditions.

3.2.19. Embedded mitigation and habitat management and enhancement measures are integral to the Proposed Development. During construction, environmental protection measures will be controlled by *inter alia* a Construction Environmental Management Plan (CEMP), a Peat Management Plan (PMP) and various Species Protection Plans (SPPs). A suitably qualified ECoW would be appointed to oversee the works and ensure compliance.

3.2.20. If consent is granted, habitat enhancement will be undertaken following construction. In this respect, an Outline Restoration & Enhancement Plan (OREP) has been prepared and is presented at EIA Report Appendix 6.6. This outline document sets out a framework for enhancement of habitats within the Site which would be further refined in a Detailed Restoration & Enhancement Plan (DREP) to be prepared post consent and in consultation with relevant stakeholders and landowners. Proposals within the OREP include:-

- Non-peat habitat enhancement (riparian shrub/woodland planting along key river corridors, species rich grassland introduction to improve diversity, and native shrub regeneration);
- Peat related habitat enhancement (re-wetting areas to enhance bog and heath habitat, and heathland habitat improvement);
- Enhancements in relation to curlew; and
- Grazing management.

3.2.21. An Outdoor Access Management Plan (OAMP), setting out proposals for managing public access on the Site during construction, is expected to be a requirement of consent. An Outline OAMP has been prepared which *inter alia* proposes temporary segregated footpath for recreational users of the SUW and Herring Road routes during the construction period (see EIA Report Appendix 3.3 for further details).

3.2.22. A study was commissioned early in the design process to establish the risk of presence of unexploded ordnance (UXO). The results are presented at EIA Report Appendix 3.4 which identified a potential risk for UXO particularly in the south of the Site, due to the presence of a WW2 firing range in the Lammermuir Hills. UXO was encountered during the construction of Fallago Rig Wind Farm and two further items identified, and professionally disposed of, during the design development of the Proposed Development. This will be a key safety consideration for the construction of the Proposed Development should it gain consent. UXO specialists will survey construction areas in advance of construction and carry out appropriate disposal of any items that pose potential risks.

3.2.23. The construction period for the Proposed Development would be approximately 19 months depending upon seasonal working and weather conditions. EIA Report Table 3.5 provides an indicative timetable for each phase of the construction works, with an associated likely sequencing of the works.

3.2.24. Normal hours of working during the construction period will be as follows:-

- Monday to Friday 0700-1900;
- Saturday 0700-1200; and
- No working on Sundays or public holidays without prior written approval from Scottish Borders Council.

3.2.25. No works, with the exception of turbine or transformer delivery, the completion of turbine erection or emergency work, will take place outside these hours, unless agreed in advance with Scottish Borders Council. The requirement for out-of-hours work could arise, for example, from delivery and unloading of abnormal loads (usually undertaken at night/early morning to minimise disruption on the public road network and in agreement with consultees, such as Police Scotland) or health and safety requirements, or to ensure optimal use is made of fair weather windows for the erection of turbine blades and the erection and dismantling of cranes.

3.2.26. The Applicant has made clear its commitment to set up a community benefit fund for the duration of the 35 year operational period of the Proposed Development. This has been discussed with the local community through the pre-application stage and the Applicant will continue to engage with local Community Councils and Development Trusts in the post submission phase. The fund would be in line with the Scottish Government guidelines, which is the equivalent of £5,000 per MW of installed capacity per year. Further information in relation to the socio-economic benefits of the Proposed Development are set out in the standalone Socio-Economic and Tourism Assessment.

3.3. Benefits of the Proposed Development

3.3.1. In summary, the key benefits of the Proposed Development are as follows:-

- Significant enhancement measures, over and above those required to mitigate the effects of the Proposed Development, are proposed. In this respect, the key objective of the OREP (EIA Report Appendix 6.6) is to provide a holistic framework for the enhancement of the Site with respect to biodiversity, peat resource and landscape and visual amenity;
- The Proposed Development will help meet the Scottish Government's net zero GHG emission target by 2045 as well as the key interim 2030 target of a 75% reduction compared to 1990 levels. Over the 33 years that it is expected to be generating carbon-free electricity, taking into account the carbon payback period, the Proposed Development could result in CO_2 emission savings of around 1.7 million tonnes when replacing fossil fuel-mix electricity generation (EIA Report Chapter 12: 'Other Issues');
- The number of households that could potentially be powered by the Proposed Development is estimated to be over 62,000 per year, based on a generation capacity of 108MW (EIA Report Chapter 1: 'Introduction');
- The implications of the ongoing war in Ukraine have shed a spotlight on the importance of having greater security over our future energy supplies. Allied with the cost of living crisis, in part due to the significant increase in oil and gas prices, there is a renewed sense of urgency to expand the country's 'home grown' sources of energy to reduce reliance on imported supplies. The Proposed Development responds positively in this regard;

- Construction of the Proposed Development will generate a range of contract opportunities for regionally based companies and national contractors who employ people from the local area. The Proposed Development would potentially lead to the creation of new direct and indirect jobs through supply chain benefits and new expenditure introduced in the local economy;
- While recognising that community benefits are voluntary, and are not material considerations, the Applicant is offering £5,000 per MW per year during the operational life of the Proposed Development, as per Scottish Government guidance. Based upon a total installed capacity of around 108 MW, this would equate to up to £540,000 annually to the local community; and
- The Applicant also recognises the opportunities and benefits that arise from community ownership in energy projects and is committed to working with local communities to provide opportunities for community investment in Dunside Wind Farm if there is local interest in taking this forward.

3.4. Consideration of Fallago Rig 2 Wind Farm Refusal

3.4.1. The western part of the Site overlaps with the site of a previous S36 application for an extension to the existing Fallago Rig Wind Farm (Ref. ECU00003102[iv]). The proposed extension comprised 12 turbines, each with a maximum blade tip height of 126.5 m. The scheme was also promoted by EDF Energy Renewables Ltd and was known as 'Fallago Rig 2 Wind Farm'. Wind turbines T1, T7 and T9 of the Proposed Development fall with the eastern part of the previous Fallago Rig 2 site boundary. The remaining turbines forming part of the Proposed Development lie outwith and further to the south-east of the site of Fallago Rig 2.

3.4.2. S36 consent was ultimately refused for Fallago Rig 2 Wind Farm in June 2020, following a conjoined Public Local Inquiry (PLI)[1] in August 2017 triggered by objections from Scottish Borders Council (Refs. WIN-140-5 and WIN-140-6). As set out in the Scottish Ministers' determination letter dated 25 June 2020, the main determining issues were:-

- *'the environmental impacts, and more particularly the landscape and visual impact of the proposed development; and*
- *the extent to which the proposed development would be consistent, in principle, with national energy and planning policy'* (page 6).

3.4.3. The Reporter found that all other environmental and technical considerations could be satisfactorily addressed, where required, either through embedded design mitigation or through appropriately worded planning conditions (see PLI Report, Section 5).

3.4.4. In refusing S36 consent for the wind farm extension, the Scottish Ministers' determination letter concludes that while *'the proposed development would provide benefits in relation to helping meet renewable energy targets; associated saving of carbon dioxide emissions; and contributing to the economy through the construction, operation and maintenance of the wind farm…*[it] *would give rise to significant adverse landscape and visual impacts'* (page 7).

[1] Relating to applications for S36 and S36C consent respectively for an extension to Fallago Rig (Fallago Rig 2) and to vary the operational life of Fallago Rig

3.4.5. While the Proposed Development is not an extension to the existing Fallago Rig Wind Farm, the Applicant has had regard to the Fallago Rig 2 decision in formulating the proposals. As noted in paragraph 3.3.1 above, only the western part of the Proposed Development (proposed turbines T1, T7 and T9) overlaps with the site of Fallago Rig 2. The remaining turbines forming part of the Proposed Development lie outwith and further to the south-east of the site of Fallago Rig 2, outwith the 'landscape bowl' occupied by the existing Fallago Rig turbines. The conscious siting of the Proposed Development upon the plateau at Blythe Edge and Byrecleugh Ridge to the north and south of the Dye Water and slightly separated from the Fallago Rig Wind Farm is intended to address issues around disparity in scale between the two schemes but also to place the Proposed Development firmly on the large scale expansive plateau landscape.

3.4.6. The proposals for woodland planting through the valleys which dissect the plateau edge to the east (see the OREP at Appendix 6.6) are intended as a substantial long term change, which are currently heavily grazed, offering long term landscape restoration and habitat diversification. These wooded cleughs are a feature characteristic of the northern and western edges of the Lammmermuirs, but have been lost on this southern edge.

3.4.7. It is also important to note that since the Fallago Rig 2 Wind Farm proposal was refused, there have been a number of key changes to energy and planning policy (discussed further in Sections 4 and 5 of this Statement) *inter alia*:-

- Responding to the impact of the war in Ukraine in terms of security of energy supply and the current cost of living crisis, the Scottish Government's Programme for Government 2022-2023 confirms that *'addressing the cost crisis is not, and should not be viewed as, separate from addressing the ongoing climate and nature crises'* (page 20);
- The updated Onshore Wind Policy Statement (OWPS) was published in December 2022. It notes that continued deployment of onshore wind will be key to ensuring that Scotland's key 2030 targets are met. In relation to landscape and visual considerations, the OWPS notes at paragraph 3.6.1 that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that *'this will change the landscape'* (no emphasis added). This point is recognised in Policy 11(e)(ii) of National Planning Framework 4 (NPF4). The OWPS also states in paragraph 3.6.2 that *'stronger weight'* is to be given to the contribution of a development to the climate emergency in the planning balance, as well as community benefits; and,
- In tackling the twin climate and nature crises, NPF4 Policy 11 now explicitly requires, as a matter of national planning policy, decision makers to give *'significant weight'* to the contribution that proposals make towards meeting renewable energy generation and GHG reduction targets. This policy also recognises that significant landscape and visual impacts *'are to be expected for some forms of renewable energy'*.

3.4.8. As demonstrated in subsequent sections of this Statement, the Applicant is of the view that the Proposed Development responds positively to NPF4 by delivering significant renewable energy generation and long term landscape and habitat enhancement. While the terms of the previous Fallago Rig 2 refusal are noted, the scheme changes and changed policy context are relevant considerations. In this respect, it is considered that the Proposed Development strikes an appropriate balance while seeking to tackle the twin climate and nature crises.

4. Energy Legislation and Policy Considerations

4.1. Introduction

4.1.1. This section of the Statement considers various pieces of energy legislation and policy considered to be of relevance to the Proposed Development. It includes a discussion on international, UK and Scotland legislation and policy.

4.1.2. As this section will demonstrate, there is an increasingly consistent recognition across various tiers of government and policy advisors that climate change is a 'here and now' issue.

4.1.3. The various documents discussed in this section all recognise that urgent action is required now to reduce our greenhouse gas (GHG) emissions if we are to avert the worst consequences of climate change. Sourcing an increasing proportion of our energy from renewable sources has a key role to play in achieving this objective. The Scottish Government declared a climate emergency in May 2019 and passed the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, which amends the Climate Change (Scotland) Act 2009 and sets a target for a 100% reduction in GHG (including CO_2) emissions by 2045, with an interim target of a 75% reduction by 2030 (relative to 1990 levels).

4.1.4. Scottish Borders Council also declared a climate emergency in September 2020, which was followed by the preparation of a Climate Change Route Map in June 2021[v]. A Priority Action Plan[vi] to deliver the Route Map was then approved in March 2022. Section 5 of the Route Map sets out 25 milestones and core actions to achieve each one. Milestone EC4 relates to adopting emerging low energy technologies and supports development of *inter alia* '*the whole renewables industry through its planning and economic policies: wind, wave, and tidal energy, solar, hydro, biomass including potential for circular economy such as farm waste to create biofuel'* and *'grid balancing services including battery storage'* (page 40).

4.1.5. In addition, the implications of the ongoing war in Ukraine have shed a spotlight on the importance of having greater security over our future energy supplies. Security of supplies has been a consistent theme across many of the energy publications over the last decade, but there can be no doubt that this issue has taken on a much greater degree of importance since the start of the Ukraine war, which has seen significant increases in the price of oil and gas and statements from the UK Government about the importance of diversifying our domestic energy supplies, including publication of the Energy Security Strategy in April 2022, which is discussed below.

4.1.6. The legislation and policy documents discussed below are material considerations in support of the Proposed Development which can, and should, be given significant weight in the determination of this S36 application.

4.2. The Legislative Context

UK Legislation

Climate Change Act 2008 (as amended)

4.2.1. The Climate Change Act 2008[vii] became law on 26 November 2008 and introduced a legally-binding target for the UK to reduce GHG emissions by at least 80% by 2050, relative to 1990 levels.

4.2.2. In June 2019, the Climate Change Act 2008 (2050 Target Amendment) Order 2019[viii] was introduced which amended the Climate Change Act 2008, by introducing a target for at least a 100% reduction of GHG emissions in the UK, compared to 1990 levels.

4.2.3. Efforts to reduce GHG in Scotland contribute to achievement of UK wide targets, as well as meeting Scotland specific targets as discussed below.

Energy Security Bill 2022

4.2.4. The Energy Security Bill[ix], introduced to Parliament on 6 July 2022, seeks to deliver a cleaner, more affordable, and more secure energy system. Including 26 measures, the Bill is expected to bring £100 billion in private sector investment into diversifying the UK's energy mix by 2030.

4.2.5. Growing renewable markets is a key focus, with an expectation that close to 480,000 new jobs will be created by the legislation.

4.2.6. In a push to reduce the UK's dependence on volatile fossil fuel markets and gas prices, the Bill seeks to improve domestic energy production and make the country more self-sufficient when it comes to the energy it uses.

4.2.7. Announcing the Bill, Business Secretary Kwasi Kwarteng said, *'this is the biggest reform of our energy system in a decade'* and, *'the measures in the Energy Security Bill will allow us to stand on our own two feet again, reindustrialise our economy and protect the British people from eye-watering fossil fuel prices into the future'.*

Scottish Legislation

The Climate Change (Scotland) Act 2009 (as amended)

4.2.8. The Climate Change (Scotland) Act 2009[x] created the statutory framework for GHG emission reductions in Scotland by setting a target for net Scottish emissions for the year 2050 to be at least 80% lower than the 1990 baseline level. An interim target of a 42% reduction by 2020 was also set out.

4.2.9. The 2009 Act also established the Public Bodies Climate Change Duties which came into force on 1 January 2011. It requires that Public Bodies, which includes the Scottish Ministers as decision makers, exercise their functions:

- in a way best calculated to contribute to deliver the Act's emissions reduction targets;
- in a way best calculated to deliver any statutory adaptation programme; and
- in a way that it considers most sustainable.

4.2.10. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019[xi] amends the Climate Change (Scotland) Act 2009, by introducing even more ambitious GHG reduction targets. It commits Scotland to becoming a net zero society by 2045 (five years earlier than the rest of the UK). By introducing the 2019 Act, Scotland became one of the first countries to legislate support for the aims of the Paris Agreement (discussed below).

4.2.11. In addition to setting a target date of 2045 for reaching net zero emissions, the 2019 Act also introduced interim targets and states that the Scottish Ministers must ensure that the net Scottish emissions account for the year:

- 2020 is at least 56% lower than the baseline (1990 being baseline);
- 2030 is at least 75% lower than the baseline; and
- 2040 is at least 90% lower than the baseline.

4.2.12. Coming into force on 31 May 2023, the Climate Change (Scotland) Act 2009 (Interim Target) Amendment Regulations 2023[xii] adjusts the interim 2020 target from 56% to 48.5%. It also revises down the annual targets for the 2020s in the lead up to the next key interim target of 75% in 2030. This new legislation follows advice from the Climate Change Committee (CCC) to the Scottish Ministers and is solely in response to a change in international carbon reporting practices.

4.2.13. To help ensure delivery of the long-term GHG reduction targets, Scotland's climate change legislation includes annual targets for every year to 2045. The levels of these targets (expressed as percentage reductions from the 1990 baseline) are set out in Table 1 below.

Table 1: GHG Reduction Targets by Year

Year	GHG Reduction Targets (as % of 1990 baseline)	Year (continued)	GHG Reduction Targets (as % of 1990 baseline)
2020 (interim target)	48.5%	2033	79.5%
2021	51.1%	2034	81%
2022	53.8%	2035	82.5%
2023	56.4%	2036	84%
2024	59.1%	2037	85.5%
2025	61.7%	2038	87%
2026	64.4%	2039	88.5%
2027	67.0%	**2040 (interim target)**	90%
2028	69.7%	2041	92%
2029	72.3%	2042	94%
2030 (interim target)	75%	2043	96%
2031	76.5%	2044	98%
2032	78%	2045	100% (net zero emissions)

4.2.14. The Scottish Government statistics for 2020 GHG emissions were published in June 2022[xiii]. These statistics show that GHG emissions in 2020 reduced by 58.7% against the previous target of 56%, confirming that the 2020 interim target was met. However, it is relevant to note that these reductions were recorded during the height of the Covid-19 pandemic during which the country was in lockdown for long periods of time. These lockdown measures significantly curtailed normal day to day life, especially travel. The large reductions in emissions recorded in the transport sector between 2019 and 2020 has been attributed in the 2022 Scottish Government 'Report to the Restrictions Imposed by Covid-19 Lockdown Measures' (pages 18 and 19) to travel curtailment during the pandemic.

4.2.15. The Scottish Government GHG emissions statistics for 2021 were published in June 2023[xiv] and show that for the eighth time in 12 years the annual target has been missed (49.9% compared to the new and lower target of 51.1%). As anticipated, emissions experienced a 'bounce back' from 2020 levels (up by 2.4%) following the relaxation of Covid-19 lockdown measures. Domestic transport was still the biggest source of emissions and was responsible for 26.2% of the total, although emissions from cars were 17.5% lower than 2019, the year before the pandemic.

4.2.16. The above demonstrates that much more needs to be done if we are to meet the next key milestone of a 75% reduction in GHG emissions by 2030. Indeed, the Amendment Regulations 2023 demand greater reductions year on year throughout the 2020s to deliver this, when compared to the superseded annual targets for the same decade. The challenge of delivering the 75% reduction in GHG emissions by 2030 is arguably even greater than it was previously because of the increase in the annual rate of reductions now required through the 2020s to meet the unamended 2030 target.

4.3. International

COP 21 – The Paris Agreement

4.3.1. The 21st session of the Conference of Parties (COP21) was held in Paris in February 2015. The Paris Agreement[xv], as it is commonly referred to, was negotiated by representatives of 196 countries. It sets out the ambition of holding the increase of global average temperature to *'well below 2°C'* and pursuing efforts to limit temperature increases to 1.5°C. Under the Paris Agreement, each country must determine plans and regularly report on the contribution that it undertakes to mitigate global warming.

4.3.2. The UK ratified the UN Paris Agreement in November 2016 and therefore contributes to the framework to ensure that global warming is kept well below 2°C, pursuing efforts to limit the temperature increase to 1.5°C. This ambition has been consistently reaffirmed, most recently at COP27 in Egypt in November 2022.

COP26 – The Glasgow Climate Pact

4.3.3. COP26, the follow up to the Paris Agreement, concluded in Glasgow in November 2021. The text agreed by the Parties (known as the Glasgow Climate Pact[xvi]) reaffirms the Paris Agreement aim of holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels. It further states that the impacts of climate change will be much lower if temperature increases are limited to 1.5°C compared with a 2°C rise, and resolves to pursue efforts to limit the temperature increase to 1.5°C.

4.3.4. It also acknowledges that restricting global warming to 1.5°C requires rapid, deep and sustained reductions in global GHG emissions, including reducing global carbon dioxide emissions by 45 % by 2030, relative to the 2010 level, and to net zero around mid-century, as well as deep reductions in other GHG emissions.

4.3.5. While the 'phasing out' of the use of coal was removed from the final text, there was a pledge to 'phase down' the use of coal. While there is disagreement amongst observers about the extent to which the language on coal usage was watered down, the Glasgow Climate Pact is nevertheless the first international climate agreement to mention fossil fuel controls at all. The Glasgow Climate Pact also called upon the Parties to *'accelerate'* the transition to low-emission energy systems *'including by rapidly scaling up the deployment of clean power generation'*.

Intergovernmental Panel on Climate Change (IPCC) – Special Report on Global Warming of 1.5°C

4.3.6. Following the Paris Agreement, the IPCC was invited to provide a Special Report in 2018[xvii] on the impacts of global warming of 1.5°C above pre-industrial levels and related GHG emission pathways.

4.3.7. The IPCC Special Report looks at a number of climate change impacts that could be avoided by limiting global warming to 1.5°C compared to 2°C or more. It identifies various actions required to limit global warming to a 1.5°C rise only, which are noted as requiring *'rapid, far-reaching and unprecedented changes in all aspects of society'*. On energy generation, it notes that to limit warming to 1.5°C the proportion of primary energy derived from renewables will need to increase while coal usage decreases. Table 2.5 states that in order to achieve the *'rapid and profound near-term decarbonisation of energy supply'* a *'strong upscaling of renewables'* is required in order to help achieve a *'rapid decline in the carbon intensity of electricity'*.

IPCC – AR6 Climate Change 2021: The Physical Science Basis

4.3.8. In August 2021, the IPCC published a report from its Working Group 1[xviii] which provides an evaluation of the state of the climate, possible climate futures and steps to limit future climate change. The Headline Statements for Policymakers states that it is *'unequivocal'* that human influence has warmed the atmosphere, ocean and land and that this human-induced change is *'already affecting many weather and climate extremes across every region of the globe'*. The report notes that *'global warming of 1.5°C and 2°C will be exceeded during the 21st century, unless deep reductions in carbon dioxide and other greenhouse gas emissions occur in the coming decades'*.

4.3.9. The report notes that every region of the globe is projected to be affected by a changing climate, and that these changes would be *'more widespread at 2°C compared to 1.5°C global warming and even more widespread and/or pronounced for higher warming levels'*. Limiting human-induced global warming to a specific level will require limiting cumulative carbon dioxide emissions, reaching *'at least net zero CO_2 emissions, along with strong reductions in other greenhouse gas emissions'*.

4.3.10. This IPCC report has been described as a *'code red for humanity'* by the United Nations Secretary-General.

IPCC – AR6 Climate Change 2022: Mitigation of Climate Change

4.3.11. The IPCC Working Group III report Climate Change 2022: Mitigation of Climate Change[xix] was published on 4 April 2022. It is the third instalment of the IPCC's sixth assessment cycle (AR6).

4.3.12. It focuses on climate change mitigation, assessing methods for reducing GHG emissions, and removing GHG from the atmosphere. It explains developments in emission reduction and mitigation efforts, assessing the impact of national climate pledges in relation to long-term emissions goals.

4.3.13. The Summary for Policymakers concludes that limiting global warming will require major transitions in the energy sector. Headline Statement C4 on page 36 notes that *'reducing GHG emissions across the full energy sector requires major transitions, including a substantial reduction in overall fossil fuel use, the deployment of low-emission energy sources, switching to alternative energy carriers, and energy efficiency and conservation'*. (emphasis added).

4.3.14. *'It's now or never, if we want to limit global warming to 1.5°C (2.7°F)'* said the IPCC Working Group III Co-Chair in an accompanying press release. '*Without immediate and deep emissions reductions across all sectors, it will be impossible.'*

IPCC – AR6 Climate Change 2023: Synthesis Report

4.3.15. The fourth and final instalment of the IPCC's sixth assessment cycle (AR6) is the Synthesis Report[xx], which was published on 20 March 2023. The Synthesis Report is so called because it draws together the key findings of Working Groups I, II and III. It also references three other shorter IPCC reports published since 2018 on: the impacts of global warming of more than 1.5ºC above pre-industrial levels; climate change and the land; and, climate change and the oceans and cryosphere (ice caps and glaciers).

4.3.16. The Synthesis Report provides the main scientific input to COP28, to be held in Dubai at the end of 2023, when countries will review progress towards the Paris Agreement goals. It outlines that the 1.5ºC limit is still achievable, provided critical action is taken across all sectors.

4.3.17. In a press release, IPCC Chair Hoesung Lee stated:-

'Mainstreaming effective and equitable climate action will not only reduce losses and damages for nature and people, it will also provide wider benefits' and, *'this Synthesis Report underscores the urgency of taking more ambitious action and shows that, if we act now, we can still secure a liveable sustainable future for all'*.

United Nations (UN) Emissions Gap Report 2022 - The Closing Window – Climate crisis calls for rapid transformation of societies

4.3.18. For more than a decade the UN Gap Reports have compared where GHG emissions are heading, against where they need to be, and highlights ways to close the gap. The latest Gap Report, 'The Closing Window – Climate crisis calls for rapid transformation of societies'[xxi], was published in October 2022.

4.3.19. It states that the world is on track for a global temperature rise of between 2.4°C -2.6°C by the end of this century. To keep global warming below 1.5°C this century, the aspirational goal of the Paris Agreement, the report states that global GHG emissions must be reduced by 45%, compared with current policy projections.

4.3.20. This latest Gap Report reinforces the severity of the problem posed by the climate emergency and reflects the messages that have been issued consistently over the last few years by the IPCC and CCC that we need to act now, to avert the worst consequences of a changing climate.

4.4. UK Energy Policy

CCC - Progress in Reducing Emissions – 2022 Progress Report to Parliament

4.4.1. The 2022 Progress Report to Parliament[xxii] was published in June 2022 and considers the global picture with regards to emissions reductions and adaptation to climate change. It discusses the UK's role in a global context before discussing a range of sectors such as transport, building, manufacturing, electricity supply, fuel supply, aviation and shipping etc. Each sector is looked at in terms of emission trends and drivers, indicators of progress, next steps and major risks.

4.4.2. In the introductory sections, the report notes that in terms of setting targets to reduce GHG emissions, the UK is a world leader. However, tangible progress is lagging the policy ambition. Commenting specifically on the impact of the situation in Ukraine, the report notes in the Executive Summary that there remains an *'urgent need'* for action *'to reduce demand for fossil fuels to reduce emissions and limit energy bills'*. These include a sustained push for both energy efficiency and electrification, *'as well as deployment of onshore wind and solar, which can occur significantly quicker than offshore wind'* (emphasis added).

4.4.3. The CCC also produced a separate Progress Report for the Scottish Parliament in December 2022, which is discussed below.

British Energy Security Strategy – Secure, clean and affordable British energy for the long term

4.4.4. In April 2022, the UK Government published the above Strategy[xxiii], primarily in response to rising global energy prices and following the Russian invasion of Ukraine. A key aim of the Strategy is to reduce our dependence on imported oil and gas and to help decarbonise the energy sector, achieving net zero by 2050.

4.4.5. The Introduction notes that *'the transition away from oil and gas then depends critically on how quickly we can roll out new renewables'*. It continues and notes that *'the growing proportion of our electricity coming from renewables reduces our exposure to volatile fuel markets'*.

4.4.6. The Strategy discusses a range of technologies including offshore and onshore wind, solar, hydrogen and nuclear. It recognises that *'onshore wind is one of the cheapest forms of renewable power'* and that there is a *'strong pipeline of future projects in Scotland'*. While there is a strong focus in the Strategy on new nuclear and the continued expansion of offshore wind, the report recognises *that '…we need to be bolder in removing the red tape that holds back new clean energy developments and exploit the potential of all renewable technologies'* (emphasis added).

Energy White Paper – Powering our Net Zero Future

4.4.7. The UK Government published the above White Paper[xxiv] in December 2020, which sets out the approach to tackling the inter-generational challenge of climate change. The Ministerial Foreword recognises that while the UK has set a world-leading net zero target, setting the target is not enough, *'we need to achieve it'*. The Foreword considers that achieving this target and tackling climate change will require decisive global action and significant investment, which can open up huge opportunities for economic growth and job creation.

4.4.8. The various actions set out in the White Paper are described as *'a strong signal to project developers and the wider investor community about the government's commitment to delivering clean electricity'*. In the Section 'Our Key Commitments', the White Paper notes that *'onshore wind and solar will be key building blocks for the future generation mix, along with offshore wind'*. The White Paper continues on this topic and states that *'we will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios'* (emphasis added).

4.5. Scottish Energy Policy

4.5.1. The Scottish Government has published a number of climate change and energy policy documents which are discussed in the following pages.

4.5.2. The Scottish Government first declared the 'climate emergency' in April 2019 when, in her speech to the Scottish National Party conference, the First Minister of Scotland stated:-

'So today, as first Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it'.

4.5.3. This was reiterated by the Climate Change Secretary, in the opening section of her statement to the Scottish Parliament on 14 May 2019, where she noted:-

'There is a global climate emergency. The evidence is irrefutable. This science is clear'.

CCC - Scottish Emissions Targets – First Five-yearly Review & Progress in Reducing Emissions in Scotland – 2022 Report to Parliament

4.5.4. Published in December 2022, these two joint reports[xxv] (required under the Climate Change (Scotland) Act 2009) provide the Scottish Ministers with advice on Scottish GHG emission targets and assess progress on reducing emissions to date. Written by the CCC, the advice is set out in two parts:

- The first provides a review of Scotland's targets in view of recent methodology changes for estimating emissions; and
- The second looks at Scotland's progress in emissions reduction, policy plans and delivery of those plans over the last year.

4.5.5. The analysis shows that the 2020 interim GHG reduction target was achieved. In this respect, Scotland's GHG emissions fell by 12% from 2019 and by 51% since 1990. However, the fall in emissions in 2020 was largely due to travel restrictions in place during the Covid-19 pandemic, without which it is unlikely the interim target would have been met. The CCC note that the annual targets in the 2020s will be much harder to achieve as emissions rebound.

4.5.6. There are a number of key messages including that *inter alia* meeting the 2030 interim target remains extremely challenging. The analysis suggests that a 65-67% reduction in emissions is feasible. Policies must therefore go further to meet the legislated 75% reduction by 2030.

4.5.7. The CCC makes a series of recommendations to the Scottish Government, including an urgent need to *'provide a quantified plan for how its policies will combine to achieve the emissions reduction required to meet the challenging 2030 target. The plan must detail how each of Scotland's ambitious milestones will be achieved'*. It also urges working more closely with the UK Government given that many aspects of policy, especially in the industry and energy supply sectors, are reserved to Westminster. (Executive Summary)

The Scottish Government - A Stronger and More Resilient Scotland - The Programme for Government 2022-23 (September 2022)

4.5.8. While the Programme for Government[xxvi] is not an energy policy specific publication, it does set out important statements about how the Scottish Government intends to address various matters relating to GHG emissions and renewable energy, amongst other issues.

4.5.9. On page 20 the Programme for Government discusses issues related to tackling the climate emergency. It notes that the development of renewable energy will help to reduce energy price fluctuations and costs, helping households and businesses to save money. On page 11, under the heading 'A Stronger and More Resilient Scotland', the Programme for Government notes that the forthcoming Energy Strategy will set out *'ambitious plans to generate more power from our own renewable sources'* (since published and discussed below).

4.5.10. The Programme for Government notes that energy is a key component of the current cost crisis, and *'our forthcoming Energy Strategy will set out ambitious plans to generate more power from our own renewable resources'* (page 11) to help tackle this. It confirms on page 20 that *'addressing the cost crisis is not, and should not be viewed as, separate from addressing the ongoing climate and nature crises'* (emphasis added).

4.5.11. Page 12 notes that the climate crisis is not a far off future problem - it is happening, here and now, and the impacts continue to increase in frequency and severity. The same page notes that the increase in renewable energy deployment and the transition to net zero is a significant opportunity that the Scottish Government intends to capture in the year ahead.

4.5.12. The Programme for Government specifically references onshore wind at several points noting the ambition to develop a further 12 GW (page 11) by 2030, details of which are to be set out in the updated Onshore Wind Policy Statement (discussed below).

Update to the Climate Change Plan 2018-2032: Securing a Green Recovery on a Path to Net Zero

4.5.13. In December 2020, the 'Update to the Climate Change Plan 2018 - 2032: Securing a Green Recovery on the Path to Net Zero'[xxvii] (CCP Update) was published. The CCP Update sets the Scottish Government's legislative commitment to reducing emissions by 75% by 2030 (compared with 1990) and to net zero by 2045 in the context of a post-Covid-19 green recovery.

4.5.14. The CCP Update highlights that a key part of the green recovery is a co-ordinated approach across sectors. The CCP Update emphasises the growth and success to date of Scotland's renewable energy generation as well as stating strongly the determination that this growth must continue. Page 78 of the Update states that *'planning has been, and will remain, a critical enabler of rapid renewables deployment in Scotland'*. Referring specifically to onshore wind generation, on page 84 it is noted that there is a motivation to reduce determination periods for applications to enable projects to be awarded consent to be developed more quickly.

Onshore Wind Policy Statement (OWPS) 2022

4.5.15. The Onshore Wind Policy Statement[xxviii] (OWPS) was published in December 2022 and clearly sets out that onshore wind will be a critical technology to help deliver the 2030 and 2045 climate change targets.

4.5.16. The Ministerial Forward notes that *'we must accelerate our transition towards a net zero society'*. It adds that *'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'* (emphasis added).

4.5.17. The 'Vision Statement' states that *'onshore wind is the biggest source of renewable energy in Scotland – of the total 13 GW of renewable energy in Scotland, almost 9 GW is supplied by onshore wind. Public acceptance for onshore wind has consistently increased over the last decade with the latest RenewableUK poll noting that more than 87% of the UK public either strongly support onshore wind development or have no opinion. Scotland's abundant natural resources and policy support for onshore wind have seen us lead the way in project deployment and the resulting economic benefit compared to other parts of the UK'*.

4.5.18. The OWPS quantifies the amount of new onshore wind that is needed in order to meet GHG reduction targets and notes in the Ministerial Foreword that there is an *'ambition of 20GW of onshore wind capacity in Scotland by 2030'* to encourage decarbonisation of the energy system. Paragraph 1.1.5 states that Scotland has 8.7 GW of onshore wind as of June 2022 with an additional 11.3 GW in the pipeline at various stages for the future.

4.5.19. Paragraph 8.2.4 recognises the importance of enhancing grid infrastructure to support the transition to net zero. Schemes that benefit from planning permission/consent prior to 2030, also need to benefit from a pre-2030 grid connection in order to contribute to targets. The Applicant has a confirmed grid connection date of January 2028 for the Proposed Development. Therefore, if granted permission, Dunside Wind Farm would make a positive contribution to the 20GW onshore target and this is a significant factor to bear in mind, noting the challenging nature of this 2030 target.

4.5.20. Paragraph 8.4.1 states that onshore wind can also play a greater part in ensuring energy supply security. The importance of a secure energy supply has come into much sharper focus following the war in Ukraine and this is a theme that is central to the British Energy Security Strategy, discussed earlier.

4.5.21. Chapter 3 'Environmental Considerations: Achieving Balance and Maximising Benefits' references Scotland's Land Use Strategy and recognises that as the country moves towards a net zero economy, there will need to be a significant land use change, from current uses to forestry and peatland restoration and that this needs to happen alongside other essential activities, including onshore wind, while protecting and enhancing habitats.

4.5.22. Paragraph 3.5.6 recognises that as an *'essential part of our energy mix'*, onshore wind deployment will increase in the coming years, providing further opportunities for the sector to contribute significantly to biodiversity ambitions. In the commentary on peat and carbon-rich soils, the OWPS notes that reversing degradation of peat through peatland restoration is central to mitigating and adapting to the linked climate and nature crises. Paragraph 3.3.6 notes that in some cases it will be necessary to construct onshore wind farms on areas of peat, *'given the established need for additional onshore wind turbines to tackle climate change and to ensure long-term availability of cheap renewable energy'* (emphasis added).

4.5.23. In Section 3.6, the OWPS discusses landscape and visual matters and links with National Planning Framework 4 (NPF4) (discussed in Section 5 of this Statement). Paragraph 3.6.1 notes that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that *'this will change the landscape'* (no emphasis added). This very clear statement from the Scottish Government recognises that facilitating the route to net zero will result in noticeable changes to the landscape, and this is something as a society we will have to accept. This point is also recognised in Policy 11(e)(ii) of NPF4. Not all renewable energy projects will receive permission however, and the OPWS recognises in paragraph 3.6.1 that the aspiration is to ensure *'the right development happens in the right place'*.

4.5.24. Importantly, the OWPS states in paragraph 3.6.2 that *'stronger weight'* (emphasis added) is now to be given to the contribution of a development to the climate emergency in the planning balance, as well as community benefits. If the legally binding climate change targets are to be met, the enhanced need case for more onshore wind to deliver the 2030 20GW ambition needs to be recognised by decision makers.

4.5.25. Chapter 5 'Benefits to Local Communities and Financial Mechanisms' notes the Scottish Government's commitment to the principles of a just transition to a net zero economy, meaning that communities across Scotland feel the benefits of this transition. There is specific reference in paragraph 5.2.2 to the University of Strathclyde and Fraser of Allander Institute publication, 'The Economic Impact of Scotland's Renewable Energy Sector - Update' which shows that the onshore wind sector alone directly supports over 2,600 full time equivalent jobs in Scotland. The Proposed Development would contribute to these figures during the construction, operation and decommissioning phases.

4.5.26. In the concluding chapter, the OWPS describes the deployment of onshore wind as *'mission critical'* for meeting climate targets. There is a clear desire to see the deployment of greater volumes of onshore wind over the coming decade to deliver the ambition of a minimum installed capacity of 20GW by 2030. Critically, the OWPS does not just want developers to deliver onshore wind energy in isolation. Proposals need to maximise the economic, social and environmental benefits too, to help the just transition to a net zero society.

Scottish Energy Strategy (SES) 2017 & Draft Energy Strategy and Just Transition Plan (2023)

4.5.27. The SES[xxix] was published in December 2017 and sets out the Scottish Government's strategy through to 2050, marking a 'major transition' over the next three decades in terms of energy management, demand reduction and generation.

4.5.28. The Strategy sets a new 2030 'all energy' target for the equivalent of 50% of Scotland's heat, transport and electricity consumption to be supplied from renewable sources. The Strategy also targets an increase by 30% in the productivity of energy use across the Scottish economy.

4.5.29. Page 57 acknowledges that the possible electrification of heat and transport on a large scale could place much greater demand on the renewable electricity sector. Accordingly, page 33 notes that achieving the equivalent of 50% of Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030 will be challenging but the target *'demonstrates the Scottish Government's commitment to a low carbon energy system and to the continued growth of the renewable energy sector in Scotland'* (emphasis added).

4.5.30. Page 41 notes that renewable and low carbon energy will provide the foundation of our future energy system, offering Scotland a huge opportunity for economic and industrial growth. While the SES acknowledges that all renewable energy technologies will have a role to play in the future energy system, the nature of the energy and climate change goals means 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'* (page 43) (emphasis added).

4.5.31. The Scottish Government published the Draft Energy Strategy & Just Transition Plan[xxx] (hereafter referred to as the Draft SES) for consultation purposes in January 2023. While the Draft SES may be subject to change following consideration of responses, brief commentary is merited here on certain aspects of its content.

4.5.32. The Ministerial Foreword describes the 2020s as a *'decisive decade'* when we must deliver an energy system that meets the challenge of becoming a net zero nation by 2045. It notes the need to reduce dependency on oil and gas, as a means of combating the climate crisis and reducing our exposure to global market volatility in the energy market, which has seen energy prices increase significantly since the start of the Ukraine war in 2022. The Draft SES seeks to reduce energy costs in the long term and reduce the likelihood of future energy cost crises. It also seeks to achieve the transition to a net zero society in a just manner, so that the employment and economic opportunities associated with it are fully realised.

4.5.33. The overall vision 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 our wider climate and environmental ambitions, drive the development of a wellbeing economy and deliver a just transition for our workers, businesses, communities and regions'.

4.5.34. A series of actions are listed on page 24 to achieve this vision, including the need *to 'significantly scale up renewable energy production, including on-and offshore wind power, renewable hydrogen, marine energy, solar and hydro'* (emphasis added).

4.5.35. Meeting the anticipated increase in demand for domestic electricity forms a key component of the Draft SES, but exporting electricity generated in Scotland is recognised as an economic opportunity. In 'Delivering the Vision' on page 22, the Draft SES states that by 2030 *'Scotland will be a renewable powerhouse, exporting renewable hydrogen and electricity to support decarbonisation in Europe as part of an integrated system with the rest of Europe'*. This opportunity is illustrated in Figure 6 on page 19.

4.5.36. Section 3.1 notes that *'increasing levels of home-grown renewable supply will make energy more affordable and ensure it is always available when we need it'*. The Draft SES is not technology specific and there are comments, aspirations and targets for different technology types. It is clear that the Draft SES sees onshore wind as playing a key role in meeting the target of an additional 20GW of renewable energy capacity by 2030. In this respect, onshore wind is expected to provide 12GW of this additional capacity and the Draft SES notes at paragraph 3.1.2 that *'taller and more efficient turbines can be deployed at both new developments and when considering the repowering of existing sites, providing significantly increased capacity, often without increasing the footprint of an existing site. There are also substantial opportunities associated with repowering onshore wind farms as they come to the end of their lives'*.

4.5.37. Consistent with the OWPS, the Draft SES seeks to ensure that economic benefits and benefits to communities are maximised as part of the drive to deliver significant additional onshore wind capacity. This is reflected in the wording of NPF4 Policy 11(c).

4.5.38. The need to address the nature crisis as we deploy greater volumes of onshore wind is discussed on page 66, recognising that peatland impacts of onshore wind can be significant. As such, there remains a need to balance the benefits of onshore wind deployment with impacts on carbon rich habitats.

4.5.39. In Section 3.2 'Reducing Our Reliance on Other Energy Sources', the Draft SES notes that the Scottish Government wishes to ensure the fastest possible transition from dependence on a fossil fuel energy system to one that maximises the value we obtain from Scotland's rich and varied renewable energy resource. This section references NPF4 and states that the Scottish Government will encourage, promote and facilitate all forms of renewable energy development, both onshore and offshore.

4.6. Conclusions

4.6.1. There can be no doubt that over the last few years, global warming has become a pressing issue at international, national and local levels. There has been a notable change in language used by the UK and Scottish Governments, that now recognise there is a 'climate emergency' that demands immediate action. The adoption of a net zero target for Scotland by 2045 is only part of the response – action on the ground is required if this target is to be met.

4.6.2. The various documents considered in this section all present in stark terms the very real consequences of climate change for current and future generations and the need to act now if we are to meet legally-binding net zero commitments. Taking action to deliver these targets will have ramifications for all aspects of society from reducing the demand for energy, to the electrification of heat and transport. What is clear, however, is that the move away from fossil fuel energy generation towards renewables and low-carbon technologies must continue apace and the UK and Scottish Governments have signalled their clear intent on this front in various energy publications in the last 12-24 months.

4.6.3. It is clear also that the onshore wind sector has an important, indeed 'mission critical', role to play in helping to deliver Scotland's longer-term climate change targets while also helping to reduce the cost of electricity generation.

4.6.4. The above publications should leave no doubt that the need for 'home grown' supplies of renewable energy is an absolutely essential part of making strides towards net zero as well as providing the UK with a much more secure future energy supply and tackling the cost of living crisis.

4.6.5. Lastly, there are important statements in the updated OWPS which recognise that *'stronger weight'* must now be given to the contribution a development makes to the climate emergency and importantly, a clear statement, with added emphasis, that the necessary move to taller and more efficient wind turbines *'will change the landscape'*. These matters must therefore be accorded significant weight in determining this application.

5. The Development Plan

5.1. Introduction

5.1.1. Unlike planning applications considered under the terms of Section 25 of the Planning Act, the Development Plan does not form the primary basis upon which the application will be determined. The Development Plan will be an important material consideration in the determination of the application, however there is no legislative requirement for the S36 application to be determined in accordance with the provisions of the Development Plan.

5.1.2. The statutory Development Plan as it relates to this S36 application comprises the following documents:-

- National Planning Framework 4[xxxi] (NPF4) (2023);
- Scottish Borders Local Development Plan[xxxii] (LDP) (2016); and
- Adopted Supplementary Guidance (SG), especially the Renewable Energy SG[xxxiii] (2018)

5.2. National Planning Framework 4 (NPF4) (2023)

Introduction

5.2.1. NPF4 was adopted on 13 February 2023 and now comprises the national element of the statutory Development Plan. NPF4 sets out the long-term vision for development and investment across Scotland and replaces Scottish Planning Policy (SPP) and National Planning Framework 3 (NPF3) in their entirety. This marks a significant change from the status of the now replaced NPF3 and SPP, which did not form part of the statutory Development Plan. Not only has the status of the document changed, but the wording of key national planning policies has materially altered too, as discussed below.

5.2.2. In his closing remarks to the Scottish Parliament on 11 January 2023, the Minister for Public Finance, Planning and Community Wealth stated:-

'It has been suggested that the fourth national planning framework represents the biggest change to our approach to planning in Scotland in 75 years. Indeed, NPF4 marks a turning point for planning: it is not a general policy update; it is about change and planning with courage and determination to make some of the difficult decisions that may lie ahead'. (emphasis added)

5.2.3. NPF4 therefore marks a major change in the tone and status of Scotland's national planning policy. This must be reflected in the weight that decision makers give to the document when making decisions on individual developments. This is discussed further in the subsequent commentary on individual policies, especially Policies 1 and 11.

5.2.4. NPF4 sets out a list of national planning policies to assess applications, alongside national developments and spatial priorities for different regions within Scotland.

5.2.5. There are two central themes running through NPF4 namely addressing i) the climate emergency and ii) the nature crisis. These key themes are reflected in the detailed wording of many policies, as well as their stated Intent and Outcomes. As the Ministerial Foreword notes:-

'Putting the twin global climate and nature crises at the heart of our vision for a future Scotland will ensure the decisions we make today will be in the long-term interest of our country'.

5.2.6. The Ministerial Foreword also notes that delivering net zero GHG emissions is one of three 'strategic priorities' alongside addressing child poverty and delivering a wellbeing economy.

5.2.7. The positive contribution that the Proposed Development can make to addressing the twin nature and climate crises is set out in the following policy assessment. The following commentary starts with Part 1 of NPF4, working through the document in chronological order, and considering the Proposed Development against specific planning policies and wider stated outcomes and spatial priorities.

NPF4 Part 1 – A National Spatial Strategy for Scotland 2045

5.2.8. Part 1 of NPF4 sets out the national spatial strategy and regional spatial priorities for different parts of Scotland. Six spatial principles are identified which will influence all plans and decisions as follows:-

- Just Transition;
- Conserving and Recycling Assets;
- Local Living;
- Compact Urban Growth;
- Rebalanced Development; and
- Rural Revitalisation.

5.2.9. Application of these spatial principles will support the planning and delivery of:-

- Sustainable Places – where we reduce emissions, restore and better connect biodiversity;
- Liveable Places – where we can all live better, healthier lives; and
- Productive Places – where we have a greener, fairer and more inclusive wellbeing economy.

5.2.10. The commentary in NPF4 on 'Sustainable Places' is the most relevant section of Part 1 to this application. Page 6 notes the legislative basis for Scotland's net zero GHG emissions target by 2045 and states that '*we must make significant progress towards this by 2030'* (emphasis added).

5.2.11. As a headline objective, the commentary on page 7 states that *'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'*.

5.2.12. Page 7 states that '*every decision on our future development must contribute to make Scotland a more sustainable place'* and there is encouragement for the expansion of renewable energy generation. To respond to the global biodiversity crisis, *'nature recovery must be at the heart of future places'* (page 7).

5.2.13. In the 'Cross-Cutting Outcome and Policy Links' Box on page 8 'Reducing Greenhouse Gas Emissions', NPF4 states that:-

'The global climate emergency and the nature crisis have formed the foundations for the spatial strategy as a whole'.

5.2.14. In the 'Cross-Cutting Outcome and Policy Links' Box on page 9 'Improving Biodiversity', NPF4 notes that the nature crisis and the global climate emergency underpin the spatial strategy as a whole.

5.2.15. These Policy Link Boxes clarify how NPF4 will help achieve the stated outcomes through reference to relevant policies and summary commentary on each. Those NPF4 policies of most relevance to the Proposed Development are discussed in the section below on NPF4 Part 2.

NPF4 Part 2 – National Planning Policy

5.2.16. Part 2 of NPF4 sets out the national planning policies. There are 33 national planning policies in total, set out under the three headings of:-

- Sustainable Places;
- Liveable Places; and
- Productive Places.

5.2.17. For each policy, NPF4 provides commentary on Policy Intent, Policy Outcomes and then discusses implications of the policy for Local Development Plans. Following the policy wording, NPF4 then sets out statements on Policy Impact and cross references to other Key Policy Connections.

5.2.18. Those policies considered to be of relevance to the Proposed Development are discussed in the following paragraphs, starting with Policy 11 'Energy', being the most relevant in this case. Thereafter, commentary on policies follows in numerical order.

Policy 11: Energy

5.2.19. This policy is the most relevant to the Proposed Development. The Policy Intent is 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 emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS)'* (emphasis added). The Policy Outcomes are the *'expansion of renewable, low-carbon and zero emissions technologies'*.

5.2.20. To achieve these Outcomes, Policy 11 states in part (a) that *'development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported'* (emphasis added). This includes*, 'wind farms including repowering, extending, expanding and extending the life of existing wind farms'* outwith National Parks and National Scenic Areas (NSA) (parts (a)(i) and (b)) and, *'energy storage, such as battery storage…'* (part (a)(iii)).

5.2.21. On the basis of the above, given the Site's location outwith the aforementioned national designations, it is considered that the Proposed Development can draw support from Policy 11 (parts (a) and (b)) in principle. In this respect, NPF4 Part 3 states, '*where a policy states that development will be supported, it is in principle, and it is for the decision maker to take account of all other relevant policies'*. It is also recognised that each application must be treated on its own merits. However, in the case of renewable energy developments, what has changed with NPF4, and noticeably so, is the language in Policy 11 about the need for decision makers to give '*significant weight'* to the contribution that proposals make towards meeting renewable energy generation and GHG reduction targets. This is discussed further below.

5.2.22. Part (c) of Policy 11 deals with the socio-economic impacts of renewable energy proposals. It 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'*.

5.2.23. The socio-economic benefits associated with the Proposed Development are set out in the standalone Socio-Economic & Tourism Assessment. Key factors worthy of note from that assessment are:-

- During its development and construction, the Proposed Development could generate £9.5 million (m) Gross Value Added (GVA) and £39.9m GVA in south-east Scotland (defined in the assessment as the Scottish Borders and East Lothian) and Scotland respectively;
- During its development and construction, the Proposed Development could generate 129 and 591 years of employment in south-east Scotland and across Scotland respectively;
- During its operation and maintenance, the Proposed Development could generate £0.6m GVA and £1.9m GVA annually in south-east Scotland and Scotland respectively; and
- During its operation and maintenance, the Proposed Development could generate 7 and 22 jobs annually in south-east Scotland and across Scotland respectively.

5.2.24. Construction of the Proposed Development will generate a range of contract opportunities for regionally based companies and national contractors who employ people from the local area. The Proposed Development would potentially lead to the creation of new direct and indirect jobs through supply chain benefits and new expenditure introduced in the local economy.

5.2.25. While it is recognised that community benefits are voluntary arrangements, and are not material considerations, the Applicant is committed to maximising local economic benefits by following Scottish Government guidance on community benefits and is offering £5,000 per MW per year during the operational life of the Proposed Development. Based upon a total installed capacity of around 108 MW (15 x 7.2 MW wind turbines), this would equate to up to £540,000 annually to the local community. In addition to delivering a community benefit fund, the Applicant is committed to actively engaging with the local community to establish priority aims and projects to allow a tailored package of benefits to be developed.

5.2.26. The Applicant also recognises the opportunities and benefits that arise from community ownership in energy projects and is committed to working with local communities to provide opportunities for community investment in Dunside Wind Farm if there is local interest in taking this forward.

5.2.27. Taking the above into account, it is considered that the Applicant has done what it reasonably can at this stage in the process to maximise the socio-economic benefits of the Proposed Development consistent with Policy 11 part (c).

5.2.28. Part (d) of Policy 11 confirms that proposals that impact on international or national designations will be assessed in relation to Policy 4. Commentary on Policy 4 is set out below.

5.2.29. Part (e) of Policy 11 sets out a list of factors to be considered in the assessment of renewable energy proposals. This list is very similar to that set out in paragraph 169 of SPP and in some cases includes identical language to paragraph 169 of SPP. Part (e) of Policy 11 requires applicants to demonstrate how various factors have been addressed through design and mitigation. The Proposed Development is assessed against these factors in Table 2 below.

Table 2: Commentary on NPF4 Policy 11 Part (e)

Policy Criteria	Commentary
Policy 11(e)(i) Impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker.	EIA Report Chapter 4: 'LVIA' establishes that there are five settlements within 15 km of the Site (i.e. Westruther, Longformacus, Lauder, Gordon and Nether Blainslie) that have theoretical visibility of the Proposed Development and have been considered in the assessment (EIA Report Figure 4.1.2). None however are predicted to experience significant visual effects. A Residential Visual Amenity Assessment (RVAA) (EIA Report Appendix 4.2) has been undertaken for those properties within 3.1 km of the Proposed Development. Although receptors at five properties have the potential to experience a significant visual effect, none of these would be affected to such a degree that they would be widely regarded as an unattractive place in which to live i.e. the residential visual amenity threshold would not be breached. As set out in the RVAA, the reason for this is typically a combination of factors including: distance from the nearest visible turbine, screening of views of turbines by the intervening landform, screening or filtering of views of turbines by vegetation, and / or the availability of open views in other directions from the property, its curtilage / gardens or access track. A reduced aviation lighting scheme has been designed and agreed with the CAA (EIA Report Appendix 11.1). The assessment of landscape and visual effects due to visible aviation lighting is presented in EIA Report Appendix 4.3. When visible, aviation lighting on the turbine nacelles tends to be seen in closer proximity views from the minor roads which cross the Lammermuir moorland plateau to the east of the Site, or from the rolling farmland to the south, beyond forested horizons. Significant visual effects are predicted for one assessment viewpoint (VP 3: Minor road near Wanside Rig Junction), but under the 2,000 candela (cd) situation only. In the reduced 200 cd situation, which is more likely to be experienced by people at this viewpoint, no significant effects are predicted.

Policy Criteria	Commentary
	EIA Report Chapter 9: 'Noise and Vibration' has been prepared in accordance with ETSU-R-97 and the Institute of Acoustics (IoA) Good Practice Guide. Subject to compliance with the derived noise limits, operational noise due to the Proposed Development in conjunction with cumulative developments, would comply with the requirements of ETSU-R-97 and the Good Practice Guide at all assessed receptor locations. Operational noise from the non-wind turbine infrastructure, such as the substation and battery energy storage units, are sufficiently distanced from the nearest receptors such that their impacts are negligible. No significant noise effects are anticipated during the temporary construction or decommissioning phases. Notwithstanding, best practice mitigation measures would be adopted to manage noise emissions as part of a CEMP, which would be agreed as a condition of consent. In the event that aggregate is required to be extracted from the proposed onsite borrow pits by blasting, mitigation measures would be put in place to ensure that the effects of blasting noise and vibration on nearby properties are suitably controlled. EIA Report Chapter 12: 'Other Issues' finds that three properties (Keepers Cottage and two properties at Byrecleuch Cottages) could experience significant effects due to shadow flicker under the 'theoretical' maximum scenario. However, following the calculation of the more 'realistic' scenario, taking into account average sunny daylight hours when sunshine would be bright enough to cause the effects of shadow flicker, the shadow flicker predictions fall below the significance threshold level at all assessed properties within 10 rotor diameters (in this case, 1.8 km). In reality, the occurrence of shadow flicker is likely to be reduced even further as the wind turbine blades will not always be rotating for 365 days per year, for example, during low wind conditions or where maintenance is required. Mitigation for shadow flicker effects is therefore not proposed, based on the 'realistic' scenario results. Should any complaints from nearby properties regarding shadow flicker effects be received, these will be fully investigated and suitable mitigation implemented in agreement with the Local Planning Authority (LPA).
Policy 11(e)(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.	This part of Policy 11 notes that proposals will generally be acceptable where significant landscape and visual effects are localised and/or appropriate design mitigation has been applied. There is no requirement for significant effects to be localised and for appropriate design mitigation to be applied. The policy therefore sets out an either/or scenario. Secondly, this part of Policy 11 makes it clear that where significant landscape and visual effects are localised and/or design mitigation has been applied, the expectation is that these effects will generally be considered acceptable. The corollary is that it would be unusual for such effects to be considered unacceptable.

Policy Criteria	Commentary
	Any commercial scale onshore wind farm is likely to create some significant landscape and visual effects and it is relevant to note the site specific design principles set out in EIA Report Chapter 2: 'Site Selection and Design Strategy' and discussed further in the accompanying Design & Access Statement. In this respect, the iterative design process has resulted in *inter alia*: • Reduction in overall blade tip height from 260 m to 220 m to better relate to the scale of the underlying landscape and the scale of operational, consented and proposed windfarms, and to reduce visibility from sensitive receptors; • Removal or relocation of turbines in the north of the Site to reduce effects on residential receptors at Killpallet; and • Removal of the closest turbines to the Mutiny Stones and improvements to the site layout to reduce effects on the setting of this Scheduled Monument (SM). Overall, the iterative design process has sought to strike a balance between maintaining a clear scheme 'composition' in key views; minimising physical interaction with and visibility from cultural heritage assets; safeguarding residential amenity; and, maximising energy yield. Once operational, the Proposed Development will have a significant effect on the host Dissected Plateau Moorland Landscape Character Type (LCT) within approximately 5 km of the closest turbine. Significant landscape effects will also extend to the adjacent LCTs - Upland Fringe Moorland with Hills (within 7 km) and Plateau Moorland – Lothians (within 5 km). Significant visual effects have been identified at nine of the 24 representative viewpoints, up to a distance of around 9 km from the Site. Significant effects will be experienced by recreational receptors on the SUW up to a distance of up to around 9 km. Within around 5 km of the Site, significant visual effects will be experienced at local hill summits and when using Core Paths and PRoWs. Significant visual effects will also be experienced by users of the local road network. In terms of designated landscapes, the Proposed Development will result in direct and indirect changes to the landscape character of the host Lammermuir Hills SLA, up to a distance of around 7km. Significant visual effects are also recorded within the SLA, including from locations along the Southern Upland Way (SUW) and at the summit of Dirrington Great Law. The Proposed Development would affect some of the special qualities of the SLA, most notably its *'remote, wild qualities, despite its managed nature'* and *'the extent and openness of the landscape lend scenic value'*. However, effects on these qualities are not anticipated to affect the overall integrity of the designated landscape. This is due in part to the local area being affected by existing wind farm development at Fallago Rig.

Policy Criteria	Commentary
	The Proposed Development will not affect the integrity of any other locally designated landscapes within the study area, including the Whiteadder and Lammermuir Moorland SLAs in East Lothian. At a distance of over 18 km, the Proposed Development will also not adversely affect any of the special qualities of the Eildon and Leaderfoot NSA, or its integrity. Based on the blade tip ZTV (EIA Report Figure 4.1.7), only Mellerstain GDL has theoretical visibility of the Proposed Development and is considered in the assessment. However, the LVIA concludes that the Proposed Development is unlikely to have an adverse impact on the setting of Mellerstain House or on the integrity of the designed landscape or its key features. Operational wind farms are part of the current baseline, and cumulative interactions with these wind farms are therefore considered as part of the primary assessment in Chapter 4: 'LVIA'. In many views, the Proposed Development will be seen as an extension of Fallago Rig, which already characterises these views. The turbines of the Proposed Development will be larger in scale, contrasting with the Fallago Rig turbines in some views. In relation to future baseline scenarios, whereby consented and/or proposed schemes are also present in the landscape, cumulative effects are most likely to arise when the Proposed Development is considered in addition to Newlands Hill. Newlands Hill is at scoping stage and located around 4 km to the north of the Site. This relationship is considered in the LVIA under 'Scenario 2'. In most views the effect will remain as in the primary assessment, except where Newlands Hill is in front of the Proposed Development and they occupy the same field of view. In this scenario, the additional effect of the Proposed Development is typically lessened.
Policy 11(e)(iii) Public access, including impact on long distance walking and cycling routes and scenic routes.	The SUW runs approximately 0.8 km to the south of the nearest proposed turbine location and shares a section of the proposed access track (the existing Fallago Rig Wind Farm access track) for approximately 700 m to the east of Twin Law. Three Scottish Hill Tracks, one Heritage Path (known as Herring Road) and numerous Public Rights of Way are also located close to or within the Site boundary (EIA Report Figure 3.13). An Outline OAMP has been prepared which *inter alia* proposes temporary segregated footpath for recreational users of the SUW and Herring Road routes during the construction period (EIA Report Appendix 3.3). This will be achieved by the temporary reinstatement of a footpath running alongside the shared section of access track that was created during the construction of Fallago Rig Wind Farm. This footpath will keep recreational users segregated from construction vehicles during periods of high traffic volume and abnormal load deliveries. Once the wind farm is operational, there will be new opportunities for informal recreation, as the new tracks will improve accessibility throughout the Site.

Policy Criteria	Commentary
	EIA Report Chapter 4: 'LVIA' assesses the impact of the Proposed Development on those recreational routes where there is theoretical visibility of the wind turbine blades. It concludes that, once operational, views from the SUW (within around 9 km) and from other Core Paths and PRoWs (within around 5km) would be significantly affected by the Proposed Development, both in isolation and in combination. No other significant residual visual effects on recreational routes are identified. As discussed in the standalone Socio-Economic and Tourism Assessment, research evidence has consistently found that there is no discernible relationship between the development of onshore wind farms and tourism/recreation. The potential impact of the Proposed Development on tourism assets within 15 km of the Site has been assessed. It is not predicted to adversely affect local accommodation providers, recreation trails or visitor attractions.
Policy 11(e)(iv) Impacts on aviation and defence interests including seismological recording.	Following consultation with relevant stakeholders, EIA Report Chapter 11: 'Aviation' advises that the Proposed Development could potentially affect the operation of i) Edinburgh Airport and ii) radar at Brizlee Wood (military) and at Great Dun Fell (civil). The Applicant has instructed an Instrument Flight Procedure (IFP) Assessment in relation to Edinburgh Airport. Given that the distance to the nearest proposed turbine is over 45 km, no adverse operational effects are expected to be identified. The proposed turbines will be visible to one of the long-range radar at Great Dun Fell, which will require technical mitigation. In conjunction with the operational Fallago Rig Wind Farm, there is potential for a cumulative effect on the performance of the air defence radar at Brizlee Wood. Mitigation options may therefore need to be developed with the MoD following receipt of its formal consultation response to the S36 application. For both the NATS Great Dun Fell radar and the MoD Brizlee Wood radar, EIA Report Chapter 11 advises that technical mitigation options are likely to be available using existing capabilities and that the interests of aviation stakeholders can be protected through the use of suitable planning conditions requiring the implementation of technical solutions. A reduced lighting scheme limiting the number of wind turbines with visible aviation warning lights and the type of lighting to be used has been agreed with the CAA (EIA Report Appendix 11.1). In addition, non-visible infra-red aviation lighting will be installed on all wind turbines to address MoD low flying requirements. The Proposed Development lies outwith the 50km consultation zone specified by the MoD in relation to the Eskdalemuir seismic array.

Policy Criteria	Commentary
Policy 11(e)(v) Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.	EIA Report Chapter 1: 'Introduction' summarises the consultation undertaken with telecommunications network operators during the EIA Scoping process and notes that no objections were raised. There are no telecommunications links within, or in the vicinity of, the Site which could experience effects from the Proposed Development. Telecommunications were therefore 'scoped out' and the EIA Report does not consider this topic further. Pre-construction checks will be undertaken to ensure the above findings remain unchanged nearer the time of construction or if changes have occurred, these are fully understood prior to construction works commencing.
Policy 11(e)(vi) Impacts on road traffic and on adjacent trunk roads, including during construction.	EIA Report Chapter 10: 'Access, Traffic and Transport' finds that the maximum traffic impact associated with the construction phase is predicted to occur in Month 11. During this month, an average of 68 HGV movements is predicted per day and it is estimated that there will be a further 42 car and light van movements per day to transport construction workers to and from the Site. The greatest magnitude of effect will occur along the D52 and B6456 roads, closest to the Site. No significant road capacity issues are expected on any of the roads assessed due to the additional construction traffic movements associated with the Proposed Development as background traffic movements are low, the links are of reasonable standard and appropriate mitigation is proposed. Traffic levels during the operational phase of the Proposed Development will be very low i.e. 2-3 vehicles per day for operation and maintenance purposes. The Route Survey Report (annexed to EIA Report Appendix 10.1) indicates that the AIL delivery route from the assumed Port of Entry at Rosyth will require minor and temporary remedial works to facilitate delivery of the turbine components. With the implementation of appropriate mitigation, such as a Construction Traffic Management Plan (CTMP), no significant residual effects are anticipated in respect of traffic and transport issues. As noted above, an AMP is expected to be a condition of consent to ensure the safe use of designated recreational routes through the Site during construction.

Policy Criteria	Commentary
Policy 11(e)(vii) Impacts on historic environment.	Following the iterative design process, which has sought to *inter alia* reduce impacts on cultural heritage interests due to setting change, EIA Report Chapter 5: 'Cultural Heritage' finds that the Proposed Development will result in residual moderate (significant) effects on two SMs within the Site boundary: the Mutiny Stones and Byrecleugh Farmstead (see discussion below in relation to NPF4 Policy 7). No other residual significant setting effects on other designated cultural heritage assets within the defined inner and outer study areas are identified. No significant cumulative effects are identified, due to a lack of in-combination visibility of the Proposed Development with similar planned and extant wind energy development. In terms of direct impacts, mitigation in the form of archaeological monitoring and recording will be undertaken during ground-breaking for the construction of the new access track and hardstanding for turbine T4 where it interacts with the alignment of Byre Cleugh trackway (a non-designated heritage asset). While the potential for previously unrecorded heritage assets, including buried archaeological remains, within the footprint of the Proposed Development has been assessed to be low, mitigation in the form of archaeological monitoring and recording will help to offset any (potential partial) loss through preservation by record. This monitoring and recording will be overseen by an Archaeological Clerk of Works (ACoW) and can be secured through the use of appropriately worded planning conditions.
Policy 11(e)(viii) Effects on hydrology, the water environment and flood risk.	EIA Report Chapter 8: 'Hydrogeology, Hydrology and Geology (including Peat)' considers the potential impacts of the Proposed Development upon these receptors. It is accompanied by associated appendices addressing peat landslide risk; peat management; groundwater dependent terrestrial ecosystems (GWDTE); outline site drainage; and, watercourse crossings. The Dye Water and Blackadder Water within the Site form part of the extended River Tweed SAC, as do all the watercourses downstream of the Site. A comprehensive suite of embedded mitigation and best practice measures has been incorporated into the design of the Proposed Development. Key features that have had a considerable influence on the site layout include: peat areas and peat depth; watercourses and waterbodies; GWDTE; and, water abstraction and private water supplies. In relation to GWDTE, there are two areas where infrastructure is proposed within the buffers recommended by SEPA. Following further assessment however, the construction phase effect on these two GWDTE is concluded to be not significant. Nevertheless, additional mitigation is proposed at one location (see EIA Report Appendices 3.5 and 8.6).

Policy Criteria	Commentary
	Particular care will be taken to ensure that i) the water supply to Scottish Water's Rawburn Water Treatment Works (WTW) and ii) the existing groundwater abstractions serving Fallago Rig are safeguarded. In regard to the latter, an alternative water supply will be provided during the construction works, if required. Best practice construction, mitigation and ongoing monitoring will be captured in a CEMP (an outline document is provided as EIA Report Appendix 3.1 and provides a framework from which a final CEMP will be developed by the Principal Contractor). Subject to the successful implementation of the suite of mitigation measures identified, no likely significant adverse effects relating to the Proposed Development are identified. It has also been determined that there would be no likely cumulative effects resulting from the Proposed Development in combination with other existing, consented (but not yet built) and proposed wind farm developments. SEPA flood maps[xxxiv] indicate that flood extents are restricted to the banks of the Dye Water. No new infrastructure is proposed within the predicted fluvial floodplain extents. Subject to adherence to best practice construction methods to be set out in a CEMP and a suitable site-wide drainage strategy (an outline is presented at Appendix 8.5), the Proposed Development would not be at risk from flooding, nor would it lead to increased flood risk elsewhere during the construction, operational or decommissioning periods.
Policy 11(e)(ix) Biodiversity including impacts on birds.	As detailed in EIA Report Chapter 6: 'Ecology', following mitigation (such as the appointment of an ECoW; pre-construction surveys and species protection plans; and preparation of a comprehensive CEMP) and careful site layout design and suitable micrositing allowance, the Proposed Development is not predicted to have significant residual effects on any identified important ecological receptors during its construction, operation or decommissioning. Potentially significant effects during operation are identified for curlew (EIA Report Chapter 7: 'Ornithology'). To address this, curlew are identified as a key ornithological feature in the OREP (EIA Appendix 6.6) with three objectives specifically focussed on delivering habitat enhancement to maintain and increase the breeding curlew population. It should be noted that these objectives will also be of benefit to other breeding waders (including lapwing and golden plover). It is expected that the OREP be developed into a final document in consultation with relevant stakeholders and landowners and as a condition of consent for the Proposed Development. Subject to the successful implementation of the embedded mitigation and proposed habitat enhancement measures, EIA Report Chapter 7: 'Ornithology' finds that the Proposed Development will not result in significant residual effects on any identified important ornithological receptors during its construction, operation or decommissioning.

Policy Criteria	Commentary
	Within the context of the Habitat Regulations, no adverse effects on the integrity of the following designations are predicted (see Appendices 6.7 and 7.3): • the River Tweed SAC (of which the Dye Water forms part); • the Greenlaw Moors Special Protection Area (SPA) (noted for its pink-footed goose populations and within 20 km of the Site); • the Fala Flow SPA (as per Greenlaw Moors); and • the Firth of Forth SPA. (as per Greenlaw Moors)
Policy 11(e)(x) Impacts on trees, woods and forests.	The construction and operation of the Proposed Development does not require any permanent or temporary tree felling.
Policy 11(e)(xi) Proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration.	These matters can be covered by planning conditions as deemed necessary and would be discussed post submission with the Energy Consents Unit (ECU) and Scottish Borders Council.
Policy 11(e)(xii) The quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans.	This matter can be covered by planning conditions consistent with other projects across the country.
Policy 11(e)(xiii) Cumulative impacts.	Each chapter of the EIA Report considers the potential for and significance of cumulative impacts associated with the Proposed Development. EIA Report Chapter 4: 'LVIA' identifies some residual significant landscape and visual effects when the Proposed Development is considered in combination with other operational, consented and proposed wind farms (a summary is presented in EIA Report Table 4.64). While these cumulative effects will need to be properly considered by the decision maker, it is concluded that the Applicant has taken reasonable steps to mitigate and address these through the iterative design process. Subject to mitigation, careful siting and design, and adherence to best practice measures, no other residual significant cumulative effects are identified within the EIA Report.

5.2.30. As this commentary against Policy 11 part (e) demonstrates, for the most part, the Proposed Development will not give rise to significant adverse residual effects. It is fully expected that outstanding technical matters in relation to aviation can be addressed, which then principally leaves the cultural heritage and landscape/visual effects to be considered.

5.2.31. Not unusually for a commercial wind farm proposal of this scale, EIA Report Chapter 4: 'LVIA' concludes that the Proposed Development will give rise to some significant residual landscape and visual effects, both in isolation and in combination.

5.2.32. NPF4 Policy 11 now explicitly recognises in national planning policy that significant landscape and visual impacts *'are to be expected for some forms of renewable energy'*. Policy 11 also notes that proposals will generally be acceptable where significant landscape and visual effects are localised and/or appropriate design mitigation has been applied. This marks a notable change from previous policy under SPP or NPF3. While these issues may have been recognised by decision makers in individual applications previously, that fact that it is now expressed in national policy is an important step.

5.2.33. In the context of Policy 11(e)(ii), in the absence of any guidance on what defines 'localised' within the context of this policy, the Applicant's position is that the landscape and visual effects of the Proposed Development could be described as localised and should therefore be considered acceptable.

5.2.34. Although wind farm development unavoidably entails significant effects, EIA Report Chapter 4: 'LVIA' concludes that in this case, only three landscape character types are significantly affected (the host landscape character of the Dissected Plateau Moorland LCT and the adjoining Upland Fringe Moorland with Hills and Plateau Moorland – Lothians LCTs). Part of the host Lammermuir Hills SLA (up to a distance of around 7 km) will also be subject to significant residual effects. While the LVIA finds that the Proposed Development would affect some of the special qualities of the SLA, it concludes that the overall integrity of the designated landscape would be preserved. Significant visual effects have been identified at nine of the 24 representative viewpoints, up to a distance of around 9 km from the Site. Significant effects will be experienced by recreational receptors on the SUW up to a distance of up to around 9 km. Within around 5 km of the Site, significant visual effects will be experienced at local hill summits and when using Core Paths and PRoWs. Significant visual effects will also be experienced by users of the local road network.

5.2.35. If it is not accepted that significant effects are localised, Policy 11(e)(ii) allows decision makers to consider whether appropriate design mitigation has been applied. As described in EIA Chapter 2: 'Site Selection and Design Strategy' and in the accompanying Design & Access Statement, it is considered that the Applicant has applied appropriate design mitigation and this has helped to limit the geographical spread of significant landscape and visual effects.

5.2.36. Turning to the identified residual significant effects on the Mutiny Stones and Byrecleugh Farmstead SMs, the iterative design process has also sought to minimise the potential for impacts on heritage assets resulting from setting change. See further discussion under NPF4 Policy 7 below.

5.2.37. To add to this commentary, it is highly relevant to note that at the end of the part (e) assessment criteria after part (xiii), Policy 11 states that:-

'In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets' (emphasis added)

5.2.38. Whereas previously it was down to the discretion of individual decision makers about what weight they decided to give to a particular matter, Policy 11 now explicitly states that as a matter of national planning policy, they must give significant weight to the renewable energy benefits of a scheme in the planning balance (this is also set out in Policy 1 which also addresses the nature crisis and is discussed below).

5.2.39. There is no room for manoeuvre on this matter as there was previously. The inclusion of these words in two NPF4 policies is a very deliberate effort on behalf of the Scottish Government to 'rebalance' the planning system and to ensure that climate change is a guiding principle for all plans and decisions.

5.2.40. These observations are relevant in considering the statement on page 98 of NPF4 which notes:-

'It is for the decision maker to determine what weight to attach to policies on a case by case basis'.

5.2.41. While decision makers will still need to balance sometimes competing priorities or points of view, they must now give significant weight to the contribution a proposal makes towards renewable energy generation targets and GHG emission reduction targets. This is a notable development in terms of national planning policy that decision makers must engage with in each and every case. This aspect of Policy 11 adds substantial weight to the case for the Proposed Development.

Policy 1: Tackling the Climate and Nature Crises

5.2.42. Policy 1 states in full that:-

'*When considering all development proposals significant weight will be given to the global climate and nature crises'.*

5.2.43. The Policy Intent is to '*encourage, promote and facilitate development that addresses the global climate emergency and nature crises'*. The Policy Outcomes are '*zero carbon, nature positive places'*.

5.2.44. This policy applies to all forms of development and not just renewable energy proposals. The reference to the need to give *'significant weight'* to the global climate and nature crises in this overarching policy aligns with but goes further than Policy 11, which does not specifically mention the nature crisis. This overarching policy shows the seriousness with which Ministers are treating these two fundamental issues. Indeed, two recent post-NPF4 wind farm decisions (Greenburn and Achany Extension) specifically state that the seriousness of climate change, its potential effects and the need to cut CO_2 emissions, remain a priority of the Scottish Ministers.

5.2.45. Another very recent example is the Clashindarroch 2 Wind Farm decision[xxxv] (Ref. ECU00002002). Having initially recommended refusal, the Reporter reopened the PLI at the request of the Scottish Ministers to consider the content of NPF4, which had been adopted after the PLI concluded. Having heard further evidence on NPF4, the Reporter subsequently recommended that S36 consent and deemed planning permission by granted. In their decision letter, the Scottish Ministers acknowledged that there would be significant landscape and visual effects but concluded that *'these negative impacts on the natural environment are acceptable in the context of the net economic benefits and significant renewable energy benefits, in support of climate change mitigation, that would arise if the proposed Development were deployed'*.

5.2.46. The language of this overarching policy is very clear. Combined with the Policy Intent and Policy Outcomes, there can be no doubt about what this policy is designed to achieve and what it requires of decision makers. While the loss of the SPP 'presumption' from NPF4 may be noted, the language used in Policy 1 makes it clear that there is no longer any discretion about what weight should be given to these matters in the planning balance, and this marks a notable and significant shift in national planning policy.

5.2.47. The proposed wind turbines will generate around 108 MW of renewable electricity, supported by a battery storage area, which will help meet the Scottish Government's renewable energy generation targets in the post 2020 period and the net zero legal obligations by 2045, as well as the key interim 2030 target of a 75% reduction (noting that the Proposed Development has a confirmed grid connection date of January 2028).

5.2.48. With regards to the nature crisis, the findings of EIA Report Chapters 6: 'Ecology' and 7: 'Ornithology' are relevant. These assessments have concluded that, assuming the proposed embedded mitigation measures are implemented effectively and best practice measures are adhered to, there will be no residual significant effects on any ornithological or ecological receptors during the construction, operation and decommissioning of the Proposed Development.

5.2.49. In addition, an OREP (EIA Report Appendix 6.6) has been prepared. This document outlines a series of proposed enhancement measures, over and above those required to mitigate the effects of the Proposed Development, in accordance with NPF4 Policy 3 (discussed further below).

5.2.50. Overall, the Proposed Development is considered to be consistent with the Intent and Outcomes of Policy 1.

Policy 3: Biodiversity

5.2.51. The Intent of Policy 3 is '*to protect biodiversity, reverse biodiversity loss, deliver positive benefits from development and strengthen nature networks'*. The Policy Outcomes are that *'biodiversity is enhanced and better connected including through strengthened nature networks and nature-based solutions'*.

5.2.52. Policy 3 sets out a range of criteria that vary depending upon the scale and type of development proposed. Part (a) applies to all scales of development and states that proposals will contribute to the enhancement of biodiversity including, *inter alia*, restoring degraded habitats and building and strengthening nature networks and the connections between them. Part (b) relates to '*national or major development or for development that requires an Environmental Impact Assessment*'. This part of Policy 3 states that proposals will only be supported where they will conserve, restore and enhance biodiversity '*so that they are in a demonstrably better state than without intervention'*. Part (b) continues and sets five criteria that proposals will be expected to meet. These are discussed in Table 3 below.

5.2.53. Before commenting on Policy 3(b), it is worth noting that the Scottish Government's Chief Planner issued a letter on 8 February 2023 relating to 'Transitional Arrangements for National Planning Framework 4'[xxxvi] to provide advice on NPF4 becoming part of the statutory Development Plan. This letter included commentary on certain NPF4 policies, including Policy 3. In the letter, the Chief Planner noted that guidance on the application of Policy 3 is currently being produced by NatureScot and would be available shortly. The letter recognises that there are '*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*'. While this helpful clarification is noted, it is considered that the Proposed Development will bring about positive environmental benefits and can draw support from Policy 3.

Table 3: Commentary on NPF4 Policy 3 Part (b)

Criteria	Commentary
Policy 3(b)(i) '*The proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats'.*	The EIA Report accompanying the application for the Proposed Development is based upon a thorough understanding of the Site and its ecological context, obtained through desk-based assessment, field work and consultation. The assessment of the impacts of the Proposed Development, mitigation measures and enhancement proposals have been informed by a significant understanding of the Site built up over several years of surveys, consistent with this policy requirement.
Policy 3(b)(ii) '*Wherever feasible, nature-based solutions have been integrated and made best use of.'*	NPF4 defines nature-based solutions as '…*actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits'.* The Proposed Development involves enhancement measures as well as mitigation. The key objective of the submitted OREP (EIA Report Appendix 6.6) is to provide a holistic framework for the enhancement of the Proposed Development Site with respect to biodiversity, peat resource and landscape and visual amenity. The measures outlined are designed to conserve, restore and enhance the peat resource and improve habitat connectivity by enhancing riparian corridors within the Site, in a manner which would not be possible without intervention. This will allow a variety of interconnected benefits to be realised including enhancement of upland habitats and improvements in water quality. The final DREP will include a monitoring programme and review framework to track and report on the efficacy of these management measures, allowing interventions to be adapted to emerging evidence and specialist advice, and ensure net benefits are realised over the lifetime of the Proposed Development.

Criteria	Commentary
Policy 3(b)(iii) '*An assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements'.*	The submitted EIA Report confirms that following embedded mitigation and best practice construction measures, there would be no significant residual effects upon any natural heritage interests, including ornithology. All identified significant effects can be mitigated. In line with the Mitigation Hierarchy (NPF4 Definition, page 153), the iterative EIA process sought to avoid negative effects from arising, to minimise identified effects and to restore damaged habitats before seeking to offset any residual effects where possible.
Policy 3(b)(iv) '*Significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate'.*	The measures for restoration and enhancement detailed in the OREP go beyond mitigating the effects of the Proposed Development and the DREP, to be finalised in consultation with relevant stakeholders and landowners post consent and prior to the commencement of development, will include a monitoring programme to assess the effectiveness of the agreed measures.
Policy 3(b)(v) '*Local community benefits of the biodiversity and/or nature networks have been considered'.*	The focus of the Applicant's enhancement measures have been on securing biodiversity and nature conservation benefits. Local community benefits have been considered and the new tracks will improve public access, thereby encouraging local community use of the Site for recreation purposes and increasing understanding and appreciation of the natural environment.

Policy 4: Natural Places

5.2.54. This policy sets the basis for assessing applications that affect European natural heritage designations, such as Special Protection Areas (SPAs), as well as proposals affecting National Parks and NSAs and also local level natural heritage and landscape designations. The Policy Intent is to '*protect, restore and enhance natural assets making best use of nature-based solutions'*. There are two Policy Outcomes namely (i) '*natural places are protected and restored'* and (ii) '*natural assets are managed in a sustainable way that maintains and grows their essential benefits and services*'.

5.2.55. Part (a) states that proposals that have an *'unacceptable'* impact on the natural environment will not be supported.

5.2.56. Part (b) relates to European level natural heritage designations. The River Tweed SAC is an extensive designation within south-east Scotland. However, only a very small part of the SAC (less than 1%) lies within the EIA ecology study area (defined as the Site plus a 10 km buffer for designated sites). EIA Report Chapter 6: 'Ecology' concludes that the study area is of very limited value to the wider integrity of the River Tweed SAC. No adverse effects on the integrity of the designation are identified. Information to inform a Habitats Regulations Assessment (HRA) of the Proposed Development in relation to the River Tweed SAC is provided in EIA Report Appendix 6.7.

5.2.57. There is considered to be potential for connectivity between the Proposed Development and pink-footed goose populations associated with the Firth of Forth Special SPA, Greenlaw Moor SPA and Fala Flow SPA, all located within 20 km of the Site. Following assessment however, EIA Report Chapter 7: 'Ornithology' finds that there would be no adverse effects on the integrity of these designations due to construction, operation (displacement and collision risk) and decommissioning. Information to inform an HRA of the Proposed Development in relation to the noted SPAs is provided in EIA Report Appendix 7.3.

5.2.58. Part (c) relates to national level landscape and natural heritage designations. It states that proposals will only be supported where the objectives of the designation and overall integrity of the area will not be compromised, or, any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance. The EIA Report does not identify any significant residual effects on national natural heritage designations and the Proposed Development will not affect a National Park or NSA. There are therefore no conflicts with this part of Policy 4.

5.2.59. Part (d) is of relevance due to the presence of various local landscape designations (EIA Report Figure 4.1.6) which were subject to assessment in EIA Report Chapter 4: 'LVIA'. This part of Policy 4 sets two considerations for decision makers when assessing proposals that affect local landscape designations. The policy states that such proposals will only be supported where:-

i. 'Development will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified; or (emphasis added)

ii. *Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance'* (emphasis added).

5.2.60. An assessment of the effects of the Proposed Development on local landscape designations is set out in EIA Report Chapter 4: 'LVIA'. It concludes that the Proposed Development will result in direct and indirect changes to the landscape character of the host Lammermuir Hills SLA, up to a distance of around 7km. Significant visual effects are also recorded within the SLA, including from locations along the Southern Upland Way (SUW) and at the summit of Dirrington Great Law. The Proposed Development would affect some of the special qualities of the SLA, most notably its *'remote, wild qualities, despite its managed nature'* and *'the extent and uninterrupted openness of the landscape lend scenic value'*. However, effects on these qualities are not anticipated to affect the overall integrity of the designated landscape. This is due in part to the local area being affected by existing wind farm development at Fallago Rig.

5.2.61. The Proposed Development will not affect the integrity of any other locally designated landscapes within the study area, including the Whiteadder and Lammermuir Moorland SLAs in East Lothian.

5.2.62. On the basis of these conclusions, it is considered that the Proposed Development can be positively considered against Policy 4(d)(i). If these conclusions are not accepted, the wording of Policy 4(d)(ii) allows decision makers to still approve developments which may have a significant effect on the integrity of a local landscape designation where these effects are clearly outweighed by social, environmental or economic benefits of at least local importance. In this instance, it is considered that the benefits of the Proposed Development are considered to outweigh any adverse effects upon local landscape designations and that these are demonstrably of at least local importance.

5.2.63. The fact that the Proposed Development falls into the category of National Development 3 in NPF4 supports this position. By definition, the renewable energy benefits of the Proposed Development are of national importance and will help address the global climate emergency as well as contributing to the future security of energy supplies. These benefits, when considered alongside the habitat enhancement measures and community benefits, are considered to outweigh the identified impacts upon the Lammermuir Hills SLA designation. The Proposed Development can therefore be positively considered against both parts of Policy 4(d).

5.2.64. Part (f) relates to protected species and states that the level of protection required by legislation must be factored into the planning and design of development and potential impacts must be fully considered prior to the determination of any application. As demonstrated in EIA Report Chapters 6: 'Ecology' and 7: 'Ornithology' subject to mitigation, no significant adverse effects on any protected species are identified.

5.2.65. Part (g) of Policy 4 does not apply to the Proposed Development on the basis that there is no Wild Land designation within the defined LVIA study area.

Policy 5: Soils

5.2.66. The Policy Intent is to '*protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development'*. One of the Policy Outcomes seeks that '*valued soils are protected and restored'*.

5.2.67. Part (c)(ii) notes that proposals for the generation of energy from renewable sources that optimise the contribution of the area to GHG emissions reduction targets are one of the identified land uses potentially permitted on areas of peatland, carbon-rich soils and priority peatland.

5.2.68. Part (d) sets out a requirement for a detailed site specific assessment to help understand the presence of peat and carbon-rich soils on site and to enable the likely effects of a development proposal on these resources to be considered. It continues and states that this should inform careful project design and that impacts should first be avoided and then minimised through best practice. The requirement for a peat management plan is also noted.

5.2.69. The SNH (now NatureScot) Carbon & Peatland Map indicates that there are no Class 1 or 2 nationally important, priority peatlands within the Site boundary. The mapping shows large areas of the high ground in the north and south of the Site are Class 5, with smaller areas of Class 4 at lower elevations. The steepest slopes are classed as non-soil and the lower lying areas of the Site, around the river valleys, are mapped as mineral soil, with no peat indicated.

5.2.70. EIA Report Appendix 8.2 shows that approximately 38% of probed locations had depths of <0.25 m and around 43% had depths between 0.25 m and 0.5 m – these locations comprise organic soil and not peat. Of the remaining around 19% of probed locations, roughly 16% recorded depths between 0.5 m and 1.0 m. The condition of the majority of peat across the Site was found to be poor with muirburn, animal trampling/grazing, and drainage causing much of the peat surveyed to be dry and eroding.

5.2.71. Where practically possible, areas of deep peat have been avoided through the iterative design process. Two new sections of 'floating' track are proposed at Upper Knowe between wind turbines T12 and T13, but no peat deeper than 1m is to be crossed by any track infrastructure. It is estimated these two sections will amount to an area of approximately 4,100m^2.

5.2.72. Based on calculations in the Peat Management Plan (PMP) (EIA Appendix 8.3), a total of ~3,113 m^3 of acrotelmic peat and ~3,235 m^3 of catotelmic peat (6,348 m^3 total) will be excavated during construction of the Proposed Development. Much of the material that is due to be excavated is thin organic soil (~60,494 m^3), of which 27,986 m^3 is due to be directly reinstated, with the remainder (~32,508 m^3) to be used in tying in infrastructure in non-peatland areas. Of the excavated peat, 885 m^3 of acrotelm and 847 m^3 of catotelm will be directly reinstated into temporary hardstandings, and the remainder, excavated primarily for construction of cut and fill tracks, will be used to tie the track margins into the wider peat areas. Based on these calculations, there are sufficient opportunities to reuse peat across the Site without generating a surplus.

5.2.73. A site-specific Peat Landslide Hazard Risk Assessment (PLHRA) has been prepared to inform the Proposed Development design (EIA Report Appendix 8.4). It indicates low likelihood of peat landslides across the Site, with only two moderate likelihood areas intersecting with proposed infrastructure. Runout analysis at these two locations (near turbines T4 and T14) shows that potential landslide runout, if triggered by construction at the upslope source zones, would be thin to negligible volumes prior to entry to Foul Cleugh and Kersons Cleugh (the two receptor watercourses). The volumes involved would be equivalent to a minor bank failure and is not considered significant. Therefore, the significance of the effect of the risk of peat slides on the water quality of the connected Dye Water is considered to be neutral.

5.2.74. In regard to part (d)(iii), the results of the carbon calculator (see EIA Report Chapter 12: 'Other Issues') indicate that the Proposed Development is expected to pay back its debt from manufacture, construction, impact on habitat and decommissioning within 1.8 years if it replaced fossil fuel-mix electricity generation.

5.2.75. The overall net impact of the Proposed Development is positive as over its proposed 35 year lifespan, it is expected to generate over 33 years' worth of carbon-free energy. This could result in around 1.7 million tonnes of net CO_2 emissions savings when replacing fossil fuel-mix electricity generation.

5.2.76. Overall, the Applicant's approach to site design, combined with the implementation of mitigation measures during the construction and decommissioning phases, means that the Proposed Development can be positively considered against the aforementioned Policy Outcome.

Policy 7: Historic Assets and Places

5.2.77. This policy sets out the framework for assessing the impact of development proposals on a wide range of cultural heritage receptors. The Intent is *'to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places'*. Policy Outcomes include that '*the historic environment is valued, protected, and enhanced, supporting the transition to net zero and ensuring assets are resilient to current and future impacts of climate change'*.

5.2.78. As required by part (a), an historic environment assessment has been undertaken and the conclusions are presented in EIA Report Chapter 5: 'Cultural Heritage'.

5.2.79. In terms of direct impacts on known features, it is proposed that mitigation in the form of archaeological monitoring and recording be undertaken during ground-breaking for the construction of the new access track and hardstanding for turbine T4 where it interacts with the alignment of Byre Cleugh trackway (a non-designated heritage asset). Additionally, while the potential for previously unrecorded heritage assets, including buried archaeological remains, within the footprint of the Proposed Development has been assessed to be low, mitigation in the form of archaeological monitoring and recording will help to offset any (potential partial) loss through preservation by record. This monitoring and recording will be overseen by an ACoW and can be secured through the use of appropriately worded planning conditions.

5.2.80. Following the iterative design process, which has sought to *inter alia* reduce impacts on cultural heritage interests due to setting change, EIA Report Chapter 5 finds that the Proposed Development will result in residual moderate (significant) effects on two SMs within the Site boundary: the Mutiny Stones and Byrecleugh Farmstead. No other residual significant setting effects on other designated cultural heritage assets within the defined inner and outer study areas are identified.

5.2.81. Policy 7(h)(ii) requires *'significant adverse impacts on the integrity* (which is not defined in NPF4) *of the setting of a scheduled monument'* to be avoided. If this is not possible, part (h)(iii) is engaged which requires *'exceptional circumstances'* to be demonstrated to *'justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised'*. There will be no direct impacts on either SM and so part (h)(i) of Policy 7 does not apply.

5.2.82. The Historic Environment Policy Appraisal prepared by LUC (see Appendix 1 of this Statement) specifically considers the impact of the Proposed Development on the integrity of the setting of the Mutiny Stones and Byrecleugh Farmstead SMs.

5.2.83. As discussed in Section 2, the Appraisal adopts the working definition of 'integrity of setting' used in the Rigg Hill Wind Farm PLI (Ref. PPA-310-2034):-

'Changes to factors of setting that contribute to cultural significance such that the understanding, appreciation and experience of an asset are not adequately retained will affect the integrity of setting'.

5.2.84. In terms of assessment methodology, the Appraisal considers 'factors of setting' in terms of the ability to understand, appreciate and experience each SM. In relation to the Mutiny Stones, changes to the experience (but not the understanding and appreciation) of the 'factors of setting' will be adversely affected, but generally to a small extent. This is judged to constitute an adverse, but not significant, impact on the integrity of this asset's setting. Turning to Byrecleugh Farmstead, changes to the experience to the 'factors of setting' are also predicted (but not the understanding and appreciation), but to a limited extent. Overall, this too is judged to constitute an adverse, but not significant, impact on the integrity of this asset's setting.

5.2.85. On the basis of these findings, it is concluded that the Proposed Development complies with Policy 7(h)(ii) and so part (h)(iii) is not engaged.

Policy 23: Health and Safety

5.2.86. The Intent of Policy 23 is *'to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing'*. There are three Policy Outcomes including that *'safe places protect human health and the environment'*.

5.2.87. Part (d) confirms that *'development proposals that are likely to have significant adverse effects on air quality will not be supported'*, while part (e) states that *' development proposals that are likely to raise unacceptable noise issues will not be supported'*.

5.2.88. Commentary in relation to noise is set out in Table 2 above. In summary, subject to mitigation, no significant effects on account of noise during construction, operation and decommissioning are predicted. In relation to air quality, as confirmed in EIAR Report Chapter 12: 'Other Issues', the Applicant is committed to adopting good practice measures for dust management during construction and will implement these through a CEMP, thereby controlling and reducing any potential effects that dust generation may have on health.

NPF4 Part 3 - Annex A 'Outcomes'

5.2.89. Part 3, Annex A confirms that NPF4 is required by law to contribute to six Outcomes. These Outcomes are set out in Section 3 of the Town and Country Planning (Scotland) Act 1997 (as amended), having been amended by Section 2 of the Planning (Scotland) Act 2019. The six Outcomes are:-

(a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,
(b) improving the health and wellbeing of people living in Scotland,
(c) increasing the population of rural areas of Scotland,
(d) improving equality and eliminating discrimination,
(e) meeting any targets relating to the reduction of emissions of GHGs, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and
(f) securing positive effects for biodiversity.

5.2.90. These Outcomes differ in status from those set by NPF3 and the accompanying SPP in that they are now enshrined in statute. The Proposed Development can contribute positively to Outcomes (e) and (f) through the generation of a significant amount of renewable electricity while delivering biodiversity improvements through the proposed DREP. These are material factors in support of the case for granting consent.

NPF4 Part 3 - Annex B 'National Developments Statements of Need'

5.2.91. This part of NPF4 identifies eighteen national developments which are described as *'significant developments of national importance that will help to deliver our spatial strategy'*.

5.2.92. Of relevance to the Proposed Development is National Development 3 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. NPF4 confirms that this class of national development *'supports renewable electricity generation, repowering, and expansion of the electricity grid'*. It incorporates three types of development, including *'on and off shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity'*. The Proposed Development therefore falls within National Development 3.

5.2.93. Within the commentary under National Development 3, NPF4 states that *'a large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets'*. Under the commentary on 'Need', NPF4 states that *'additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy…'* (emphasis added).

5.2.94. NPF4 also confirms that proposals within this national development category will *'improve security of supply*' (page 7). Security of energy supplies has come into much sharper focus since the start of the war in Ukraine and is a key theme of the British Energy Security Strategy 2022 and the Onshore Wind Policy Statement 2022.

5.2.95. While not every national development will be granted permission, the fact that the Proposed Development falls within this category is significant in the evolution of national planning policy. This class of national development does not feature in the previous NPF3 and its inclusion in NPF4 is a clear sign that the Scottish Government clearly sees this type and scale of development as being 'of national importance' and necessary to help deliver the national spatial strategy (NPF4, page 97). NPF4 clearly recognises the need for additional electricity generation from renewables and the scale of development within National Development 3 is considered *'fundamental'* to the achievement of Scotland's net zero emissions targets.

5.2.96. The national development status of the Proposed Development must be accorded considerable weight in consideration of the application. This part of NPF4 must not be glossed over. It has been written with the intention of identifying those classes and scales of development that will make the largest contribution to achievement of the national spatial strategy and national development status must count for something in the assessment of individual applications, otherwise what purpose do they serve.

NPF4 Part 3 – Annex C 'Spatial Planning Priorities'

5.2.97. The National Spatial Strategy is supported by commentary on five Regional Spatial Strategies, each of which will contribute in their own different ways to achievement of the National Spatial Strategy.

5.2.98. The Scottish Borders fall within the 'South' Regional Area which is recognised as an *'important centre for renewable energy generation'*. In this respect, *'proposals for consolidating and extending existing wind farms and associated grid improvements and supply chain opportunities will require a carefully planned approach'*. The 'Priorities' are to *inter alia 'stimulate investment in natural and engineered solutions to climate change and nature restoration'* and, *'support local economic development whilst making sustainable use of the area's world-class environmental assets to innovate and lead greener growth'*.

5.3. Scottish Borders Local Development Plan (LDP) (2016)

5.3.1. The Scottish Government's Chief Planner issued a letter on 8 February 2023 relating to 'Transitional Arrangements for National Planning Framework 4' to provide advice on NPF4 becoming part of the statutory Development Plan. The letter reiterates that, as per Section 13(2)(3) of the Planning (Scotland) Act 2019, in the event of any incompatibility (which is not defined) between a NPF4 provision and a LDP provision, whichever of them is later in date shall prevail. In the case of the Proposed Development therefore, in the event of any policy incompatibility, NPF4 carries greater weight in the planning balance as the more recent document.

5.3.2. LDP Policy ED9 is the 'lead' policy for the assessment of onshore wind farm proposals. It is acknowledged that the Proposed Development requires to be assessed 'in the round' against all policies in the LDP, however LDP Policy ED9 is the key topic specific policy against which to assess the Proposed Development, noting also its criteria are wide ranging. Notwithstanding, to ensure a comprehensive policy appraisal, other LDP policies are also briefly referenced.

5.3.3. The Renewable Energy SG provides further detail on a number of policy matters, as well as guidance on siting and design. It does not however, introduce any new policy 'tests' as such. Regard has been had to the Renewable Energy SG as appropriate in the following sub sections as part of the assessment of the Proposed Development against adopted local planning policy. Consideration has also been given to the Council's non-statutory Supplementary Planning Guidance (SPG) where relevant.

LDP Policy ED9 Renewable Energy Development

5.3.4. Insofar as it relates to onshore wind, LDP Policy ED9 'Renewable Energy Development' states that:-

'Renewable Energy Developments
The Council will support proposals for both large scale and community scale renewable energy development including commercial wind farms, single or limited scale wind turbines, biomass, hydropower, biofuel technology, and solar power where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations.

The assessment of applications for renewable energy developments will be based on the principles set out in Scottish Planning Policy (2014), in particular, for onshore wind developments, the terms of Table 1: Spatial Frameworks. Renewable energy developments, including wind energy proposals, will be approved provided that there are no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated. If there are judged to be relevant significant adverse impacts or effects that cannot be satisfactorily mitigated, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it.

Supplementary Guidance
The Council will produce statutory Supplementary Guidance on wind energy and renewable energy. This shall be submitted to Ministers within 12 months of adoption of the plan. The guidance will accord with Scottish Planning Policy (2014) and will set out the detailed policy considerations against which all proposals for wind energy and other forms of renewable energy will be assessed, based on those considerations set out at paragraph 169. The guidance on wind energy will contain the onshore spatial framework as required by Scottish Planning Policy (2014), identifying areas where wind farms will not be acceptable, areas of significant protection, and areas with potential for wind farm development, and indicating the minimum scale of onshore wind development that the framework applies to.

The Council will produce statutory Supplementary Guidance to update the landscape and visual guidance for single and groups of 2 or 3 wind turbines in Berwickshire so that it accords with Scottish Planning Policy (2014).

Consideration of Wind Energy Proposals
The assessment of wind energy proposals will include the following considerations:

- *The onshore spatial framework which identifies those areas that are likely to be most appropriate for onshore wind turbines;*
- *Landscape and visual impacts, to include effects on wild land, and taking into account the report on Landscape Capacity and Cumulative Impact (July 2013) as an initial reference point, the landscape and visual impact assessment for a proposal (which should demonstrate that it can be satisfactorily accommodated in the landscape, and should properly address the issues raised in the 2013 report), and other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage;*
- *All cumulative impacts, including cumulative landscape and visual impact, recognising that in some areas the cumulative impact of existing and consented development may limit the capacity for further development;*
- *Impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker);*
- *Impacts on carbon rich soils (using the carbon calculator), public access, the historic environment (including scheduled monuments and listed buildings, and their settings), tourism and recreation,*

aviation and defence interests and seismological recording, telecommunications and broadcasting installations, and adjacent trunk roads and road traffic;

- *Effects on the natural heritage (including birds), and hydrology, the water environment and flood risk;*
- *Opportunities for energy storage;*
- *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, and the effect on greenhouse emissions;*
- *The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration; and*
- *The need for a robust planning obligation to ensure that operators achieve site restoration*

Developers must demonstrate that they have considered options for minimising the operational impact of wind turbine proposals, including ancillary development such as tracks'.

5.3.5. The first observation is that NPF4 no longer contains a spatial framework for onshore wind farms, as previously set out in Table 1 of the now superseded SPP. This means that those parts of LDP Policy ED9 (and indeed, the SG) that reference the spatial framework are not supported by NPF4. While NPF4 Policy 11 continues with the position set out in SPP that wind farms in NSAs and National Parks will not be supported, it also makes clear that outwith these designations, proposals for all forms of renewable energy, including wind farms, *'will be supported'*.

5.3.6. Similarly, those parts of LDP Policy ED9 (and the SG) that make reference to paragraph 169 of SPP also no longer apply.

5.3.7. Otherwise, the bulleted criteria listed under the sub-heading 'Consideration of Wind Energy Proposals' largely reflect those set out in NPF4 Policy 11(e). The Proposed Development's compliance with NPF4 Policy 11(e) is discussed in Table 2 above and so is not repeated here. This assessment demonstrates that the significant residual landscape and visual effects are localised. These types of effects are not uncommon for a commercial scale wind farm. Indeed, NPF4 Policy 11(e)(ii) specifically recognises that *'such impacts are to be expected for some forms of renewable energy'*. While EIA Report Chapter 5 identifies moderate (significant) effects on the setting of two SMs within the boundary of the Site, the Historic Environment Policy Appraisal (Appendix 1 of this Statement) concludes that the impact on the integrity of their settings is not significant.

5.3.8. The issue here is not whether significant effects will arise, but the acceptability of these effects in the wider planning balance. As previously, and before the adoption of NPF4, a balance is required to consider the positive and negative effects of a development. LDP Policy ED9 is supportive of further wind energy development subject to detailed assessment. What has changed since adoption of the LDP is the need to give 'significant weight' to the extent to which a proposal helps address the global climate and nature crises. In this respect, as discussed in detail in the sections relating to NPF4 above:

- The Proposed Development is by definition, 'national development';
- Its benefits are demonstrably of at least local importance in terms of its contribution towards renewable energy generation targets and GHG emission reduction targets (especially the key interim 2030 target given that the Proposed Development has a grid connection date in January 2028);

- The proposed habitat enhancement measures go beyond mitigating the effects of the proposed development and will benefit a host of species and habitats, including priority species and priority habitat, and improve habitat connectivity through the site and beyond; and
- Beyond the identified landscape/visual and cultural heritage effects, there are no other residual significant environmental effects that would outweigh the need to give significant weight to the two key climate and nature crises.

Other LDP Policies

5.3.9. This section considers other relevant LDP policies. It should be noted however that the topic areas are already largely contained within the 'lead' wind energy policy (LDP Policy ED9) and so only brief commentary is provided.

Sustainability & Quality

5.3.10. The preamble to LDP Policy PMD1 'Sustainability' advises that the Council will encourage sustainable development. The policy sets out various principles relating to *inter alia* the use and management of land; protection of both natural (landscapes, habitats and species) and built/cultural resources; preservation of air and water quality; and, minimisation of waste.

5.3.11. LDP Policy PMD2 'Quality Standards' aims to deliver high quality design and requires all development to integrate with its landscape surroundings. The policy discusses placemaking and design considerations with reference to matters such as scale, massing and height, materials and various other site planning and design considerations.

5.3.12. As detailed in EIA Report Chapter 2: 'Site Selection and Design Strategy' and in the accompanying Design & Access Statement, it is considered that the iterative design process has struck a balance between maintaining a clear scheme 'composition' in key views; minimising physical interaction with and visibility from cultural heritage assets; safeguarding residential amenity; and, maximising energy yield. Amongst other identified benefits, this has helped to limit the geographical spread of significant landscape and visual effects, such that these are localised and not to be unexpected for a commercial scale wind farm.

Landscape & Visual

5.3.13. At a distance over 18 km, EIA Report Chapter 4: 'LVIA' concludes that the Proposed Development will not adversely affect any of the special qualities of the Eildon and Leaderfoot NSA, or its overall integrity. The Proposed Development therefore complies with the aims and objectives of LDP Policy EP4 'National Scenic Areas'.

5.3.14. LDP Policy EP10 'Gardens & Designed Landscapes' seeks to *inter alia* safeguard the setting of sites listed in the Inventory of Gardens & Designed Landscapes. Only Mellerstain GDL has theoretical visibility of the Proposed Development and is assessed in the LVIA. However, the LVIA concludes that the Proposed Development is unlikely to have an adverse impact on the setting of Mellerstain House or on the integrity of the designed landscape or its key features.

5.3.15. In assessing proposals for development that may affect SLAs, LDP Policy EP5 'Special Landscape Areas' states that the Council will seek to safeguard landscape quality and have particular regard to the landscape impact of a proposed development, including visual impact. Where a significant adverse impact is identified, it must be outweighed by social or economic benefits of national or local importance.

5.3.16. The LVIA finds that the Proposed Development will result in direct and indirect changes to the landscape character of the host Lammermuir Hills SLA, up to a distance of around 7km. Significant visual effects are also recorded within the SLA, including from locations along the Southern Upland Way (SUW) and at the summit of Dirrington Great Law. The Proposed Development would affect some of the special qualities of the SLA, most notably its *'remote, wild qualities, despite its managed nature'* and *'the extent and uninterrupted openness of the landscape lend scenic value'*. However, effects on these qualities are not predicted to affect the overall integrity of the designated landscape. This is due in part to the local area being affected by existing wind farm development at Fallago Rig.

5.3.17. The wording of LDP Policy EP5 allows decision makers to still approve developments which may have a significant effect on an SLA designation where these effects are clearly outweighed by social or economic benefits of national or local importance.

5.3.18. As noted earlier in this section, the Proposed Development falls into the category of National Development 3 in NPF4. By definition, the renewable energy benefits of the Proposed Development are of national importance and will help address the global climate emergency as well as contributing to the future security of energy supplies. These benefits, when considered alongside the habitat enhancement measures and community benefits, are considered to outweigh the identified impacts upon the Lammermuir Hills SLA designation.

5.3.19. Five settlements within 15 km of the Site (i.e. Westruther, Longformacus, Lauder, Gordon and Nether Blainslie) have theoretical visibility of the Proposed Development and are considered in the assessment however, none are predicted to experience significant visual effects. The RVAA ((EIA Report Appendix 4.2) finds that although receptors at five properties have the potential to experience a significant visual effect, none of these would be affected to such a degree that they would be widely regarded as an unattractive place in which to live i.e. the residential visual amenity threshold would not be breached.

5.3.20. Localised significant visual effects have been identified at nine of the 24 representative viewpoints, up to a distance of around 9 km from the Site. Significant effects will be experienced by recreational receptors on the SUW up to a distance of up to around 9 km. Within around 5 km of the Site, significant visual effects will be experienced at local hill summits and when using Core Paths and PRoWs.

Cultural Heritage

5.3.21. Collectively, LDP Policies EP7 'Listed Buildings', EP8 'Archaeology' and EP9 'Conservation Areas' seek to safeguard the historic environment.

5.3.22. In regard to SMs, LDP Policy EP8 *inter alia* states that development proposals that would adversely affect the appearance, fabric or setting of SMs will not be permitted unless i) the development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site and ii) there are no reasonable alternative means of meeting the development need.

5.3.23. There will be no direct impacts on the fabric of any SMs. Following the iterative design process, which has sought to *inter alia* reduce impacts on cultural heritage interests due to setting change, EIA Report Chapter 5: 'Cultural Heritage' finds that the Proposed Development will result in residual moderate (significant) effects on the setting of two SMs within the Site boundary: the Mutiny Stones and Byrecleugh Farmstead. No other residual significant setting effects on other designated cultural heritage assets within the defined inner and outer study areas are identified, consistent with LDP Policies EP7 and EP9.

5.3.24. The Historic Environment Policy Appraisal prepared by LUC (Appendix 1 of this Statement) specifically considers the impact of the Proposed Development on the integrity of the setting of the Mutiny Stones and Byrecleugh Farmstead SMs and finds that while adverse, it will not be significant. This Appraisal has been prepared to assist with an assessment against NPF4 Policy 7, which is worded differently from LDP Policy EP8 which makes no reference to 'integrity of setting', but discusses 'setting' only.

5.3.25. As noted earlier in this section, the Proposed Development falls into the category of National Development 3 in NPF4. By definition, the renewable energy benefits of the Proposed Development are of national benefit and will help address the global climate emergency as well as contributing to the future security of energy supplies. These benefits, when considered alongside the habitat enhancement measures and community benefits, are considered to outweigh the identified impacts upon the setting of the Mutiny Stones and Byrecleugh Farmstead. Overall there is no conflict with Policy EP8 in relation to SMs or other cultural heritage LDP policies.

Ecology & Ornithology

5.3.26. Collectively, the aims of Policy EP1 'International Nature Conservation Sites & Protected Species' and LDP Policy EP2 'National Nature Conservation Sites & Protected Species' are to protect internationally and nationally important nature conservation sites and protected species. Both policies set out development management tests in relation to development proposals that are likely to have a significant adverse effect on such designations and species.

5.3.27. LDP Policy EP3 'Local Biodiversity' seeks to safeguard and enhance local biodiversity. In regard to the latter, it seeks to enhance the biodiversity value of sites, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance.

5.3.28. As detailed in EIA Report Chapters 6: 'Ecology' and 7: 'Ornithology', following mitigation (such as the appointment of an ECoW; pre-construction surveys and species protection plans; and preparation of a comprehensive CEMP) and careful site layout design and suitable micrositing allowance, the Proposed Development is not predicted to have significant residual effects on any identified important ecological and ornithological receptors, including protected species, during its construction, operation or decommissioning.

5.3.29. The River Tweed SAC is an extensive designation within south-east Scotland. However, only a very small part of the SAC (less than 1%) lies within the EIA ecology study area (defined as the Site plus a 10 km buffer for designated sites). EIA Report Chapter 6 concludes that the study area is of very limited value to the wider integrity of the River Tweed SAC and no adverse effects on the integrity of the designation are identified.

5.3.30. There is considered to be potential for connectivity between the Proposed Development and pink-footed goose populations associated with the Firth of Forth Special SPA, Greenlaw Moor SPA and Fala Flow SPA, all located within 20 km of the Site. Following assessment however, EIA Report Chapter 7 finds that there would be no adverse effects on the integrity of these designations due to construction, operation (displacement and collision risk) and decommissioning.

5.3.31. Habitat enhancement forms an integral part of the Proposed Development. In this respect, an OREP has been prepared and is presented at EIA Report Appendix 6.6. This outline document sets out a framework for enhancement of habitats within the Site which would be further refined in a DREP to be prepared post consent and in consultation with relevant stakeholders and landowners. Proposals within the OREP include:-

- Non-peat habitat enhancement (riparian shrub/woodland planting along key river corridors, species rich grassland introduction to improve diversity, and native shrub regeneration);
- Peat related habitat enhancement (re-wetting areas to enhance bog and heath habitat, and heathland habitat improvement);
- Enhancements in relation to curlew; and
- Grazing management.

Hydrology & Hydrogeology

5.3.32. LDP Policy EP15 'Development Affecting the Water Environment' advises that decision-making on development proposals will be guided by an assessment of *inter alia* pollution of surface or underground water, flood risk, proposals for river engineering works, and compliance with current best practice on surface water drainage. In regard to the latter, LDP Policy 'Waste Water Treatment Standards & Sustainable Urban Drainage' requires surface water management for new development to comply with SuDS best practice.

5.3.33. LDP Policy IS8 'Flooding' advises that development will not be permitted if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere.

5.3.34. A comprehensive suite of embedded mitigation and best practice measures has been incorporated into the design of the Proposed Development. Key hydrological and hydrogeological features that have had a considerable influence on the site layout include: watercourses and waterbodies; GWDTE; and, water abstraction and private water supplies.

5.3.35. Best practice construction, mitigation and ongoing monitoring will be captured in a CEMP (an outline document is provided as EIA Report Appendix 3.1 and provides a framework from which a final CEMP will be developed by the Principal Contractor). Subject to the successful implementation of the suite of mitigation measures identified, no likely significant adverse effects relating to the Proposed Development are identified. It has also been determined that there would be no likely cumulative effects.

5.3.36. SEPA flood maps indicate that flood extents are restricted to the banks of the Dye Water. No new infrastructure is proposed within the predicted fluvial floodplain extents. Subject to adherence to best practice construction methods to be set out in a CEMP and a suitable site-wide drainage strategy (an outline is presented at Appendix 8.5), the Proposed Development would not be at risk from flooding, nor would it lead to increased flood risk elsewhere during the construction, operational or decommissioning periods.

Geology & Soils

5.3.37. LDP Policy ED10 'Protection of Prime Quality Agricultural Land & Carbon Rich Soil' states that it applies to all development except proposals for renewable energy development. With regard to renewable energy development, it sets out that such proposals will be permitted if they accord with the objectives and requirements of LDP Policy ED9.

Public Access

5.3.38. LDP Policy IS5 'Protection of Access Routes' does not permit development that would have an adverse impact upon a publicly available access route unless a suitable diversion or appropriate alternative route can be provided.

5.3.39. The SUW runs approximately 0.8 km to the south of the nearest proposed turbine location and shares a section of the proposed access track (the existing Fallago Rig Wind Farm access track) for approximately 700 m to the east of Twin Law. Three Scottish Hill Tracks, one Heritage Path (known as Herring Road) and numerous Public Rights of Way are also located close to or within the Site boundary (EIA Report Figure 3.13).

5.3.40. An Outline OAMP has been prepared which *inter alia* proposes temporary segregated footpath for recreational users of the SUW and Herring Road routes during the construction period (EIA Report Appendix 3.3). This will be achieved by the temporary reinstatement of a footpath running alongside the shared section of access track that was created during the construction of Fallago Rig Wind Farm. This footpath will keep recreational users segregated from construction vehicles during periods of high traffic volume and abnormal load deliveries.

5.3.41. Once the wind farm is operational, there will be new opportunities for informal recreation, as the new tracks will improve accessibility throughout the Site.

Socio-economics

5.3.42. LDP Policy PMD1 expects development proposals to *inter alia* provide new jobs and support the local economy.

5.3.43. The socio-economic benefits outlined in the standalone Socio-Economic & Tourism Assessment are considered to be positive overall.

5.3.44. Construction of the Proposed Development may generate a range of contract opportunities for regionally based companies and national contractors who employ people from the study area. The Proposed Development would potentially lead to the creation of new direct and indirect jobs through supply chain benefits and new expenditure introduced in the local economy.

5.3.45. While it is recognised that community benefits are voluntary arrangements, and are not material considerations, the Applicant is committed to maximising local economic benefits by following Scottish Government guidance on community benefits and is offering £5,000 per MW per year during the 35-year operational life of the proposed development.

5.3.46. The Applicant also recognises the opportunities and benefits that arise from community ownership in energy projects and is committed to working with local communities to provide opportunities for community investment in Dunside Wind Farm if there is local interest in taking this forward.

5.4. Update of Wind Energy Landscape Capacity & Cumulative Impact Study (2016)

5.4.1. The Update of Wind Energy Landscape Capacity & Cumulative Impact Study[xxxvii] (hereafter referred to as the Capacity Study) forms part of the Renewable Energy SG. Its purpose is to update the landscape, visual and cumulative situation in the context of current wind energy development and changes to SPP (now entirely superseded by NPF4).

5.4.2. It describes the landscape character types (LCTs) within the Scottish Borders and provides guidance on the capacity of each to accommodate wind energy development of various heights. The proposed wind turbine locations fall within the Dissected Plateau Moorland: Lammermuir Plateau LCT, which is coincident with LCT 90: Dissected Plateau Moorland identified in NatureScot's national landscape character assessment.

5.4.3. The Capacity Study identifies the host LCT as being of medium landscape sensitivity, with low capacity for very large (100 m+ to tip height) turbines. It outlines that the character area is reaching capacity, but also notes, *'… there is still capacity for limited development within small areas around Fallago Rig taking advantage of areas with lower intervisibility and topographical containment for further windfarm developments of large or very large sized turbines'*. Given the broad and expansive scale of the landscape, some of which is already characterised by wind farm development, EIA Report Chapter 4: 'LVIA' considers that the Proposed Development would not result in capacity being reached or exceeded.

5.4.4. Although the host LCT is identified as having low capacity for very large turbines, it should also be acknowledged that the concept of landscapes having a fixed 'capacity' is increasingly questioned. Policy imperatives such as the declared climate emergency imply that greater levels of landscape change must be accepted. In this respect, the recently published OWPS confirms that in order to ensure climate change targets are met, taller and more efficient turbines will be required and *'this will change the landscape'* (no emphasis added).

5.4.5. Further, NatureScot states on its website that *'wind energy studies should not be referred to as 'capacity studies' as no local or regional targets are available on which to determine the 'capacity' for development'*. While the Capacity Study remains a useful source of baseline information in regard to local landscape character, value and susceptibility, statements regarding the capacity for further wind farm development should be treated with caution, noting the significant change in the planning and energy policy context in more recent years.

6. Other Material Considerations

6.1. Scottish Borders Proposed Local Development Plan (Proposed LDP) (2020)

6.1.1. The Proposed LDP[xxxviii] was submitted to the Scottish Ministers in July 2022 for Examination and hearing sessions in relation to specific topic areas are ongoing.

6.1.2. An emerging LDP carries less significant material 'weight' than an adopted LDP until such time as the Examination Report, setting out the Reporter's findings and recommendations, has been published. This Statement therefore focuses on the adopted policies of the Scottish Borders LDP 2016.

6.2. East Lothian Local Development Plan (ELLDP) (2018)

6.2.1. The northern boundary of the Site is coincidental with the administrative boundary between Scottish Borders Council and East Lothian Council.

6.2.2. It is noted that the requirements of ELLDP[xxxix] Policy WD1 'Wind Farms' no longer apply given that they are based on the spatial framework set out in the now superseded SPP.

6.2.3. ELLDP Policy WD3 'All Wind Turbines' advises that wind energy development will be supported *inter alia* provided the impact of the turbines, tracks and other ancillary development is acceptable in terms of a series of stated development management considerations. The criteria listed in ELLDP Policy WD3 largely reflect those set out in NPF4 Policy 11(e). The Proposed Development's compliance with NPF4 Policy 11(e) is discussed in Table 2 above and so is not repeated here.

6.2.4. In relation to the adjoining Lammermuir Moorland SLA designation, ELLDP Policy DC9 'Special Landscape Areas' states that development will only be permitted where i) it accords with the relevant Statement of Importance and does not harm the area's special character or ii) the public benefits clearly outweigh any adverse impact and the scheme is designed to minimise such adverse impacts.

6.2.5. EIA Report Table 4.62 assesses the potential impact of the Proposed Development on the Special Qualities of the designation. The Proposed Development would be located along the southern edge of the SLA, within the adjacent Lammermuir Hills SLA, so effects would be indirect, and relate to wider effects on the perceptual qualities of the landscape. Existing wind farms, including Fallago Rig and the Lammermuir wind farm clusters, are already visible from parts of the SLA and there will be no direct effects on key landscape features. The assessment therefore concludes that the Proposed Development will not significantly affect the integrity of the Lammermuir Moorland SLA by adversely impacting on the qualities for which it was designated.

7. Conclusions

7.1.1. As an application for S36 consent and deemed planning permission, the Development Plan does not have primacy in this case, as it would have in determining planning applications. Section 25 of the Planning Act is therefore not engaged. The Development Plan is an important material consideration, but the principal issue to be considered in determining this application is for Scottish Ministers to have regard to Schedule 9 of the Electricity Act.

7.1.2. Schedule 9 refers to the requirement for Scottish Ministers to *'have regard to the desirability'* of preserving natural beauty, of conserving flora, fauna etc. when determining S36 applications. Scottish Ministers have no duty to ensure these environmental qualities are preserved, but to have regard to the desirability of doing so. Schedule 9 does not, therefore, set strict development management tests.

7.1.3. The Applicant is an electricity generation licence holder therefore the Schedule 9 duties apply to it. Through the design evolution process, the Applicant has approached site design and layout in a manner that is consistent with Schedule 9, including the identification of mitigation where required. As such, the Applicant has clearly done what it reasonably can to mitigate the effects which the Proposed Development would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

7.1.4. In arriving at conclusions on the Proposed Development overall, Scottish Ministers can give weight to a range of matters such as national planning policy set out in NPF4, the extent to which it aligns with the objectives of the OWPS 2022, the socio-economic benefits of the Proposed Development and the contribution that it would make towards attainment of GHG reduction and renewable energy generation targets.

7.1.5. Within this context, the Proposed Development would help meet the Scottish Government's net zero GHG emission target by 2045 as well as the key interim 2030 target of a 75% reduction compared to 1990 levels. Over the 33 years that it is expected to be generating carbon-free electricity, taking into account the carbon payback period, the Proposed Development could result in CO_2 emission savings of around 1.7 million tonnes when replacing fossil fuel-mix electricity generation (see EIA Report Chapter 12: 'Other Issues').

7.1.6. Section 4 of this Statement clearly demonstrates the seriousness of the problems posed to society by the global climate emergency. The most recent synthesis report from the IPCC (March 2023) leaves no room for doubt about the importance of rapidly reducing GHG emissions – it confirms that time is running out if we are to limit global warming to 1.5°C and thus to avert the worst consequences of a warming planet.

7.1.7. The ongoing war in Ukraine has added an even greater sense of urgency to the need to expand the UK's 'home grown' sources of energy, to reduce reliance upon imported supplies. Security of energy supply has been a feature of various energy publications in recent years, but ongoing events in Ukraine have brought this into much sharper focus. Allied with the cost of living crisis, in part due to the significant increase in oil and gas prices, there is no doubt that collectively we are currently experiencing a significant crisis, which demands an appropriate response. Adopting a 'business as usual' approach is not an adequate response to the severity of the issues that society currently faces.

7.1.8. The continued and rapid roll out of renewables is a key element of the response required to meet the projected rise in electricity demand over the coming years, to reduce GHG emissions and reduce our exposure to volatile fuel markets. The British Energy Security Strategy 2022 notes that *'we need to be bolder in removing the red tape that holds back new clean energy developments and exploit the potential of all renewable energy technologies'*.

7.1.9. The OWPS 2022 notes that *'onshore wind will play a crucial role in delivering our legally binding climate change targets'* whose continued deployment is described as *'mission critical'*. It also notes that the move to taller and more efficient turbines *'will change the landscape'*. This is perhaps an obvious comment, but its appearance in the OWPS and with added emphasis cannot be ignored.

7.1.10. Turning to the Development Plan and specifically NPF4, adoption of this document by Scottish Ministers marks a significant step change, compared to predecessor documents. These changes cannot be dismissed as minor tweaks to established policy. They are deliberate and significant alterations to key national planning policies, drafted very specifically to address the Scottish Government's stated aim to 'rebalance' the planning system, so that climate change is a guiding principle for all plans and decisions.

7.1.11. If there was any doubt on this matter, the contents of the Minister for Public Finance, Planning and Community Wealth's speech to the Scottish Parliament on 11 January 2023 provides clarity:-

'NPF4 marks a turning point for planning: it is not a general policy update'.

7.1.12. Decision makers must treat this new national policy document accordingly. While it is noted that NPF4 no longer makes any reference to the presumption in favour of sustainable development, this guiding principle in SPP has been replaced with much clearer and unambiguous instructions to decision makers in Policies 1 and 11 of NPF4. These two policies change the fundamentals of assessing applications, and if they are to have the desired effect in practice, a decision on Dunside Wind Farm must be guided by these principles.

7.1.13. That means that 'significant weight' must now be given to the extent to which a proposal helps address the global climate and nature crises (NPF4 Policy 1) as well as giving 'significant weight' to the contribution that the Proposed Development makes to meeting renewable energy generation and GHG reduction targets (NPF4 Policy 11). As confirmed in recent post-NPF4 wind farm decisions (e.g. Greenburn, Achany Extension and Clashindarroch 2), where both issues are noted as priorities, there is no dubiety on this issue and no scope for decision makers to sway from these very clear instructions, as would have been permitted under SPP and NPF3.

7.1.14. Bearing in mind that NPF4 is to be read as a whole, this Planning and Energy Policy Statement has identified those elements of NPF4 of most relevance to the Proposed Development, including comments on national planning policies, National Development 3 and NPF4 Outcomes. It is evident that tackling the global climate emergency and nature crisis are two objectives that are at the heart of NPF4, reflected in overarching objectives, national planning policies and some national development classes. The proposed Dunside Wind Farm can help deliver positive benefits on both these fronts, while supporting more secure energy supplies.

7.1.15. It is important to recognise that the Proposed Development benefits from national development status, meaning that this type and scale of development is considered by the Scottish Government to be *'of national importance'* and necessary to help deliver the national spatial strategy.

7.1.16. NPF4 Policy 11 sets out very clear support for new onshore wind energy development and the Proposed Development will help deliver the Policy Outcome, which is to see *'expansion of renewable, low-carbon and zero emissions technologies'*. There is welcome recognition in this policy that renewable energy technologies do sometimes give rise to significant landscape and visual effects but these can be acceptable where mitigation has been applied and impacts are localised. In this case, it is considered that the Applicant has applied appropriate mitigation and the result is that landscape and visual effects are generally localised, and not to be unexpected for a commercial scale wind farm.

7.1.17. In relation to the identified impacts on the setting of two SMs within the boundary of the Site (the Mutiny Stones and Byrecleugh Farmstead), it is concluded that the impact on the integrity of the setting of these designations is not significant. On this basis, the Proposed Development complies with NPF4 Policy 7(h).

7.1.18. For the reasons previously discussed, the Proposed Development can be positively considered against the terms of NPF4 Policy 3. In this respect, an OREP (EIA Report Appendix 6.6) has been prepared that outlines a series of proposed enhancement measures, over and above those required to mitigate the effects of the Proposed Development. The key objective of this outline document is to provide a holistic framework for the enhancement of the Proposed Development Site with respect to biodiversity, peat resource and landscape and visual amenity. The benefits of the Proposed Development therefore go beyond just renewable energy generation and these matters must also be given significant weight in line with NPF4 Policy 1.

7.1.19. In relation to the River Tweed SAC, no adverse effects on the integrity of the designation are identified. It is also concluded that would be no adverse effects on the integrity of the three assessed SPAs or their pink-footed goose populations due to construction, operation (displacement and collision risk) and decommissioning. Shadow HRAs have been prepared in respect of these designations (EIA Report Appendices 6.7 and 7.3) and it is respectfully requested that their findings be adopted.

7.1.20. While approval of NPF4 marks a significant milestone, this is not the end of the journey. If Scotland is to become a net zero society by 2045 with significant progress by 2030, NPF4 must be put into practice by decision makers in a development management context. Decision makers need to consider the NPF4 Outcomes and how a development can help contribute to these. For the reasons discussed in this Statement, the Proposed Development can help tackle both the climate emergency and the nature crisis and can therefore draw strong support from NPF4.

7.1.21. Turning to the Local Development Plan, the lead wind energy policy confirms that proposals that are located, sited and designed appropriately will be supported.

7.1.22. Not all renewable energy projects will be deemed acceptable in the planning balance, but various critical factors all point to the Proposed Development clearly being worthy of support. The identified significant environmental effects associated with the Proposed Development are limited to landscape/visual and cultural heritage matters only and are considered to fall on the side of acceptability, when all material factors are considered and given appropriate weight.

7.1.23. Taking account of these various matters, it is considered that the Proposed Development is the 'right development in the right place', and it is therefore respectfully requested that S36 consent and deemed planning permission is granted.

[i] https://www.legislation.gov.uk/ukpga/1989/29/contents
[ii] https://www.legislation.gov.uk/ukpga/1997/8/contents
[iii] https://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice/soils/carbon-and-peatland-2016-map
[iv] https://www.energyconsents.scot/ApplicationDetails.aspx?cr=EC00003102
[v] https://scottishborders.moderngov.co.uk/documents/s56082/Item%20No.%2012%20-%20Appendix%201%20-%20SB%20CLIMATE%20CHANGE%20ROUTE%20MAP%20FINAL.pdf
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[viii] https://www.legislation.gov.uk/ukdsi/2019/9780111187654
[ix] https://www.gov.uk/government/collections/energy-security-bill
[x] https://www.legislation.gov.uk/asp/2009/12/contents
[xi] https://www.legislation.gov.uk/asp/2019/15/enacted
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[xix] https://www.ipcc.ch/report/sixth-assessment-report-working-group-3/
[xx] https://www.ipcc.ch/report/sixth-assessment-report-cycle/
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[xxii] https://www.theccc.org.uk/publication/2022-progress-report-to-parliament/
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[xxx] https://www.gov.scot/publications/draft-energy-strategy-transition-plan/
[xxxi] https://www.gov.scot/publications/national-planning-framework-4/
[xxxii] https://www.scotborders.gov.uk/info/20051/plans_and_guidance/121/local_development_plan

[xxxiii] https://www.scotborders.gov.uk/info/20051/plans_and_guidance/766/renewable_energy_supplementary_guidance

[xxxiv] https://www.sepa.org.uk/environment/water/flooding/flood-maps/

[xxxv] https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00002002

[xxxvi] https://www.gov.scot/collections/chief-planner-letters/

[xxxvii] https://www.scotborders.gov.uk/downloads/download/659/draft_renewable_energy_supplementary_guidance

[xxxviii] https://www.scotborders.gov.uk/info/20051/plans_and_guidance/121/local_development_plan/2

[xxxix] https://www.eastlothian.gov.uk/info/210547/planning_and_building_standards/12242/local_development_plan

Appendix 1 Historic Environment Policy Appraisal

Dunside Wind Farm: Historic environment policy appraisal

Historic environment policy appraisal

EDF Energy Renewables Ltd.

Addendum to the Planning Statement

Prepared by LUC

June 2023

Version	Status	Prepared	Checked	Approved	Date
1	Draft	S. Orr	S. Orr	S. Orr	27.06.2023
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Chapter 1

Introduction

1.1 This document is intended to be read in conjunction with Volume 2, Chapter 5 – Cultural Heritage, its associated figures in Volume 3a, visualisations in Volume 3b, and Appendix 5.1 in Volume 4 of the Environmental Impact Assessment Report (EIA Report) for Dunside Wind Farm (hereinafter 'the Proposed Development').

1.2 It provides additional expert analysis of the environmental impact assessment (EIA) findings and interprets its outcomes for the two heritage assets identified as experiencing likely significant effects, with regard to the relevant provisions of National Planning Framework 4. This is necessary to furnish the reader with the appropriate understanding of the technical details in light of the policy requirements, which could be argued to be beyond the competence of the EIA Report and associated appendices.

1.3 It has been prepared by Steven Orr, Director of Historic Environment and Planning of LUC – the Project Director for the cultural heritage component of the EIA.

Chapter 2

Policy, guidance and recent decisions

Background

2.1 National Planning Framework 4 (NPF4) **[See reference 1]** was adopted by Scottish Ministers in February 2023. In addition to setting the national spatial strategy for Scotland for the coming two decades, it establishes national planning policy for the purposes of development management. It forms part of the statutory development plan for Scotland's planning authorities and is a material consideration in planning decisions. Consequently, it sets the national framework for managing the historic environment through the planning process. In some respects, it represents a continuation of the preceding Scottish Planning Policy (SPP 2014) **[See reference 2]** approach to heritage assets – but with some notable changes relevant to the Proposed Development.

2.2 In managing the potential effects of development on scheduled monuments, SPP (paragraph 145) introduced the concept of 'the integrity of…setting'. At the time, this was unsupported in statute or accepted historic environment conservation and impact assessment practice, and remains so at the time of writing. It was not a concept applied to any other designated heritage asset, and as a requirement of planning policy, stands somewhat apart from EIA and HES guidance.

NPF4 Policy 7

2.3 NPF4 Policy 7, part h states:

> "*Development proposals affecting scheduled monuments will only be supported where:*

i. direct impacts on the scheduled monument are avoided;

ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or

iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised."

2.4 For the purposes of the Proposed Development, the first limb of the policy is fulfilled in the sense that direct, physical impacts on scheduled monuments have been avoided by the design process. It is the second limb of the policy, concerning whether 'significant adverse impacts on the integrity' of the setting of scheduled monuments are likely to occur that is the object of discussion in this paper. As is demonstrated below, the third limb of the policy – which requires the demonstration of 'exceptional circumstances' in the event that either direct impacts on scheduled monuments or significant adverse impacts on the integrity of their setting cannot be avoided – is not engaged and is not discussed further.

Relevant guidance

2.5 HES' 'Managing Change in the Historic Environment: Setting' guidance, published in 2016 and updated in 2020 **[See reference 3]**, provides advice to practitioners and decision makers on understanding what constitutes the setting of a heritage asset, how to assess changes within that setting, and consequent effects on the cultural significance of the asset. As noted above, it makes no reference to the concept of 'integrity' of the setting of assets, and therefore provides no assistance in defining or applying the concept in impact assessment. However, it helpfully establishes HES' view that "*setting is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced*". While the guidance is perhaps less clear than ideal on the accepted understanding that setting is inextricably linked to the cultural significance of heritage assets, and does not exist as a separate entity or receptor of impacts, this is tacitly acknowledged throughout the document. **[See reference 4]**

2.6 Professional guidance, developed in partnership by the Institute of Environmental Management and Assessment (IEMA), the Institute of Historic Building Conservation (IHBC), and the Chartered Institute for Archaeologists (CIfA) **[See reference** 5**]**, established a common framework for assessing impacts on the historic environment. It usefully restates the primacy of cultural significance in managing change to heritage assets (paragraph A.1), rather than artificially treating setting as a separate – or at least partially separate – consideration, as NPF4 appears to lean toward.

Recent appeal decisions

2.7 The Rigg Hill Wind Farm appeal (PPA-310-2034), in agreed matters between HES and the Appellant, established a useful working definition of 'integrity of setting' for the purposes of the Inquiry:

> "*Changes to factors of setting that contribute to cultural significance such that the understanding, appreciation and experience of an asset are not adequately retained will affect the integrity of setting*."

2.8 This builds on views expressed by Reporters in earlier decisions, such as Creggan (WIN-130-1), Birneyknowe (WIN-140-7) and Corlic Hill (PPA-280-2022).

2.9 However, the Rigg Hill case focused on the test set by SPP paragraph 145, which established a presumption against development that would have any 'adverse effect on a scheduled monument or on the integrity of its setting'. It must be noted that the NPF4 wording sets the bar rather higher, supporting development only where '**significant** adverse impacts on the integrity of the setting…are avoided' (LUC emphasis).

Adopted definition of ‘integrity of setting’

2.10 As the best available definition that can be afforded meaningful weight, the Rigg Hill wording it is therefore adopted for the Proposed Development. Close reading of the text, coupled with the NPF4 stipulation of avoidance of ‘significant adverse effects on the integrity of…setting’, establishes the following:

- ‘Integrity of setting’ depends on the retention of the ability to understand, appreciate and experience the factors of an asset’s setting that contribute to its cultural significance.
    - ‘Adequate retention’ in this context would be the avoidance of significant impacts on the integrity of setting (i.e. the ability to understand, appreciate and experience the contribution of setting to the cultural significance of the asset).
    - It is therefore critical that all assessments and assertions are tied back to cultural significance, and do not stray into wider matters of visual amenity or other effects.
- The principal objective is conservation (‘adequate retention’) of the setting relationships that contribute to cultural significance (e.g. visual, spatial, symbolic) of the asset.
- The ‘Integrity bar’ is not breached if the ability to understand, appreciate and experience the factors of setting contributing to cultural significance are not significantly impacted.
    - Change in both setting and its level of integrity are therefore permitted, but they cannot constitute significant adverse impacts.
- In order to make judgements on changes to the integrity of the setting of a scheduled monument, a similar judgement on the status quo is necessary to provide a baseline.

2.11 It should be noted that a significant impact on the ‘integrity of setting’ under this definition does not automatically equate to a ‘significant effect’ for the purposes of EIA. The latter weighs all elements of change to the cultural significance of assets in the round, in line with established methods. It could

reasonably be assumed that for a ‘significant impact on integrity’ to occur, the contribution that setting makes to the cultural significance of an asset would need to be significantly impacted in its own right – setting a higher bar.

Method for determining impacts on integrity of setting

2.12 To assess the level of impact on the integrity of setting, it is necessary to establish the following:

1. Contribution of setting to cultural significance (i.e. identifying the ‘factors of setting’ in the Rigg Hill definition), and the ability to understand, appreciate and experience those factors of setting.

2. Baseline level of ‘integrity’ of setting (i.e. what currently detracts from contribution to cultural significance), against which change can be assessed.

3. Level of change to contribution of setting to cultural significance arising from the Proposed Development.

4. Level of change in the ability to understand, appreciate and experience those factors contributing to cultural significance.

5. Judgement on whether integrity of setting is in receipt of ‘significant adverse impacts’.

2.13 While the majority of this information is provided and can readily be gleaned from the EIA Report, the following sections of the report are intended to provide clarity on policy alignment and support decision making.

Chapter 3

Impacts on integrity of setting

3.1 This section of the document sets out the anticipated level of impact on the integrity of the setting of scheduled monuments with the potential to be affected by the Proposed Development. It applies the outline methodology set out in the previous section, taking the findings of the EIA Report and associated appendices and visualisations as its source material. It provides no additional assessment or assertions, but instead repackages existing information to better elucidate the policy position and inform the Planning Statement.

3.2 The remainder of this section is structured by asset. Necessarily, only relevant scheduled monuments are considered, as the 'integrity test' does not apply to designated assets more generally.

Mutiny Stones

Contribution of setting to cultural significance

3.3 As an early Neolithic long cairn, the Mutiny Stones (SM361) is an asset with an indivisible relationship with its surroundings on a functional, spatial and symbolic level. While there is much that is necessarily conjectural in the interpretation of the role and importance of setting relationships, there is sufficient commonality across the type to make relatively secure assertions.

3.4 As set out in the HEA and Chapter 5 of the EIA Report, the key elements of the asset's setting that contribute to its cultural significance, and the ability to understand, appreciate and experience them, comprise:

- Secluded, inconspicuous location in the upland landscape – located away from hill and ridge summits, despite its size it is not a prominent monument

and appears to have been deliberately located to be invisible from the valley of the Dye Water (i.e. the principal route through the landscape from the earliest times). This seclusion underlines the asset's liminal location, beyond the limits of the 'domesticated' landscape of early Neolithic settlement and cultivation (after Hodder, 1990 **[See reference 6]**).

- Understanding: relationships easily read in the landscape with no meaningful distractions.
- Appreciation: the relative remoteness of the asset is readily appreciable, as is the continued sense of liminality created by distance from (albeit more recent) settled and farmed landscape. Position in the landscape, and its careful design to facilitate the 'reveal' and take advantage of local bowl topography is important in underlining the thought and planning needed to create the asset.
- Experience: the need to 'find' the asset in the landscape by following the steep-sided Byrecleugh Burn, gaining the ridge and the revelation of such a large, impressive monument is the key experience of this factor of setting.

- Its location within a localised 'bowl' of topography that creates a definite skyline enclosing the asset and the assumed ritual activity that accompanied its construction and use.
  - Understanding: readily accessible and intelligible on site, with no meaningful distractions.
  - Appreciation: the 'bowl' is a much more striking feature on the ground than necessarily appears on maps, and the sense of enclosure reinforces the sense that this was – despite its scale – an intimate monument for the living, and with a close connection to the landscape.
  - Experience: strongest experience is from the vicinity of the asset itself, where its scale is most apparent, set within its 'bowl'. Opportunities to look down into the bowl onto the asset, particularly from the north-west – giving the best view of the sheer size of the cairn.
- While visible from hills to the south and east, it recedes into the background – partly as a function of its tonal similarity to the surrounding

moorland, and also because it is situated to avoid skyline views from the wider landscape.

- Understanding: readily intelligible in the landscape and no meaningful detractors. Visibility likely to vary with patterns of muirburn.
- Appreciation: the subtlety of the local topography is best appreciated in views from the uplands to the south of the Dye Water, or from Pyatshaw Ridge to the east, at similar or greater elevation to the asset.
- Experience: the dominant experience of this factor of setting is having to visually scour the hillside to pick out the asset.

- Scale and form of the asset does not become apparent until in close proximity to it.
  - Understanding: easy to understand, as the contrast of the size and scale of the asset at close range, versus the foreshortened view available when approaching from the Byrecleugh Burn, and the diminished sense of scale in backclothed views.
  - Appreciation: the size and scale of the asset is readily appreciable on arrival, either from the Byrecleugh Burn or from the light vehicle track to the south on the Byrecleugh Ridge.
  - Experience: the ‘reveal’ of the 90m long cairn is particularly striking when accessed from the Byrecleugh Burn, but remains impressive from other routes.
- Open views over, but not into, the valley of the Dye Water towards Dirrington Great Law.
  - Understanding: relationship and deliberate placement of asset readily understood from and adjacent to the asset.
  - Appreciation: best appreciated from adjacent to the asset, and in views in combination with the asset from the north-west.
  - Experience: strong sense of connection to the wider landscape to the south and east, in parallel with a sense of separation from the settled landscape of the valley of the Dye Water.

- Sense of anticipation and surprise / reveal for visitors accessing the asset via the Dye Water and the Byrecleugh Burn, before gaining the ridge off which the asset is located.
    - Understanding: the supposed means of accessing the asset, although inevitably altered from its original stage, remains intact and the drama of the asset's sudden reveal is extant.
    - Appreciation: the process of moving through the landscape, following natural features to reach what would have been probably the largest human-made object in southern Scotland during the Neolithic – and almost certainly the largest structure any contemporary person coming into contact with it would ever have seen – can readily be appreciated.
    - Experience: this is one of the key experiences of the asset in its setting; the sense of awe at the scale of the asset and its apparent incongruity in a 'natural' landscape is powerful.

Baseline level of integrity

3.5 The asset's setting is, at present, largely undeveloped – if intensively managed – grouse moor. Lying well beyond the limits of contemporary cultivation, while the presence of more recent agriculture is visible, the open, simple landscape generally feels relatively remote and undeveloped.

3.6 There is no in-combination intervisibility of the Mutiny Stones and the Fallago Rig wind farm, although Black Hill wind farm is visible approximately 11km to the east-south-east. The asset's setting therefore has a high level of relative integrity.

Impacts of change

Change to cultural significance

3.7 The contribution that setting makes to the cultural significance of the Mutiny Stones will not be altered by the introduction of the Proposed Development. The elements of setting that are fundamental to supplementing the understanding and importance of the physical fabric, archaeological value, and the spatial, symbolic and functional relationships of the asset will remain intact. The ability to see turbines from and in-combination with the asset will not materially alter the ability to understand or appreciate these relationships. As indicated below, it is the experience of these factors that will necessarily be altered by the introduction of the Proposed Development.

Change to integrity of setting

3.8 The Proposed Development will result in the following physical changes in the landscape:

- Presence of turbines >1km from the asset in an arc from approximately north-north-west to south-south-west.
    - Turbines would be located outside the ‘bowl’ of local topography, central to the intimacy of the asset. While turbines break the skyline, they all read very clearly as sitting outside the landscape unit defined by the ‘bowl’.
    - Turbines would be a prominent feature in views of the cairn to the north-west, west, and south-west.
    - Turbines would be visible in contextual views of the cairn from the hills to the south of the Dye Water, and from elevated locations on the Pyatshaw Ridge.
    - Turbines, by their nature, introduce movement and noise to an otherwise relatively still landscape.

- Creation of expanded/reinforced access network to facilitate construction and operation of the wind farm.
    - Not visible from the cairn or its immediate environs, but will be visible in-combination views at longer distances (e.g. from Pyatshaw Ridge and the north-facing slopes of Dunside Hill.

3.9 These changes are assessed as introducing the following impacts on the integrity of the asset's setting:

Table 3.1: Impacts on integrity / factors of setting

Factor of setting (summary)	Understanding	Appreciation	Experience
Secluded, inconspicuous location in the upland landscape; Sited not to be prominent; liminal location	Relationships remain extant, level of prominence will not change, and location will still convey the liminality of the site. Spatial and functional relationships with the Dye Water and Byrecleugh Burn remain intact.	Sense of liminality and deliberate location away from the (putative) settled, domesticated valley bottom. Topography unchanged and readily appreciable; 'reveal' of asset remains intact although view will contain turbines.	Sense of remoteness and 'separateness' reduced by the presence of turbines; physical and functional seclusion from wider landscape, and longer views over the Dye Water remain intact. Sequential experience of travelling up the Byrecleugh Burn, the ridge and the 'reveal' of the asset remains; presence of prominent turbines may distract from the drama somewhat – but asset itself

Factor of setting (summary)	Understanding	Appreciation	Experience
			no less impressive. **Medium change**
Location within localised 'bowl' topography, creating enclosing skyline	Will remain accessible and intelligible; turbines clearly located outside of the 'bowl' to retain legibility.	Sense of enclosure will remain legible through intact 'bowl' skyline; turbines beyond the rim read as being at a distance and outside the ritual landscape of the bowl. Intimacy of the area around the asset will not change.	Sense of scale of the asset, set within the 'bowl' landscape, will remain strong when in its immediate vicinity. Views into the bowl from the north-facing slopes of Dunside Hill and Pyatshaw Ridge will retain the sense of scale of the asset due to the physical distances to the closest turbines. As noted above, the sense of 'separateness' of the bowl landscape reduced by turbines in the background. **Small change**
Visibility of asset in views from elevated viewpoints to the south and east; recedes into landscape	Unchanged	Appreciation of topography and siting of asset unchanged. Sense of recession into landscape intact.	Experience of having to visually search the hillside for the asset will remain intact; presence of turbines will add visual clutter. **Small change**

Factor of setting (summary)	Understanding	Appreciation	Experience
Scale and form of asset does not become apparent until in close proximity.	Unchanged.	Contrast of foreshortened view when approaching from Byrecleugh Burn / along Byrecleugh Ridge, to impressive size and scale of asset at close quarters will remain.	'Reveal' of the cairn and its impressive scale will remain intact. While turbines will be present in in-combination views approaching the asset, its form and scale are such that it will remain an impressive and evocative presence. **Small change**
Open views over, but not into, valley of the Dye Water toward Dirrington Great Law.	Unchanged. Relevant views focused away from the Proposed Development.	Largely unchanged; views from the asset (e.g. from the 'forecourt' area at the eastern end of the monument) unaffected; turbines may be present in views from elevated positions / in-combination views of the asset from higher up the Byrecleugh Ridge.	Largely unchanged; presence of turbines in periphery of in-combination views will not disrupt the experience of the contrast between the constrained views in all other directions and the panoramas available to the south-east. **Small change**
Sense of anticipation and surprise / reveal accessing the asset via Byrecleugh Burn	Unchanged.	Ability to appreciate the sequential relationships of the asset, and its sheer scale,	Awe-inspiring scale of the asset, and contrast with the moorland

Factor of setting (summary)	Understanding	Appreciation	Experience
		remain unchanged.	landscape, remain intact. 'Reveal' view will include turbines, but these will be peripheral to the focus on the asset and should not diminish either the sense of scale or the experience of the careful positioning in the landscape. **Small change**

Judgement on 'integrity test'

3.10 As Table 3.1 above illustrates, it is only the experience of the factors of setting of the Mutiny Stones that will be impacted by the Proposed Development. While the presence of turbines in the landscape is inevitably incongruous in the open, undeveloped moorland context of the asset, the visitor will retain the ability to understand and appreciate all of the key relationships of the asset.

3.11 Changes to the experience of these 'factors of setting' will be adversely affected, but generally to a small extent. The key area of change is in diminishing the sense of remoteness that informs the experience of the asset and its environs at present – assessed as being a medium level of change to that component of integrity. Viewed in the context of the other changes – and the lack of effects to the cultural significance of the asset, and the ability to understand and appreciate that significance, this is judged to constitute an adverse, but **not significant**, impact on the integrity of the asset's setting.

Byrecleugh farmstead

Contribution of setting to cultural significance

3.12 The Byrecleugh farmstead (SM4549) comprises the truncated but upstanding remains of a pre-Improvement (i.e. dating before the later 18th century) farmstead, composed of six closely-spaced rectilinear buildings. It is located on a terrace, adjacent to the Kersons Cleugh watercourse, above the floodplain of the Dye Water.

3.13 The farmstead may represent the last in a long-lived sequence of buildings, as excavations in 2011-13 in advance of the construction of the Fallago Rig access road identified two small buildings, and a possible third, with associated material culture evidence dating to the 7th-9th centuries AD. Re-use and superimposition of later structures are therefore likely, suggesting elevated archaeological value of the asset.

3.14 Setting makes a comparatively small, but nonetheless important, contribution to the cultural significance of this asset. It enables an understanding of the site selection decisions that informed the location of the asset – above the likely extent of floodwaters, avoiding the best quality agricultural land, and tucked into the hills for shelter and convenient access to upland grazings. Similarly, its location on the north side of the steeply-incised valley is likely to be concerned with maximising daylight, as the height of the hills to the south create deep shade and damp conditions on the north-facing slopes of the south side of the valley.

3.15 As set out in the HEA and Chapter 5 of the EIA Report, the key elements of the asset's setting that contribute to its cultural significance, and the ability to understand, appreciate and experience them, comprise:

- Sheltered, secluded location, tucked into the landscape at the head of Kersons Cleugh.

- Understand: orientation of buildings (roughly aligned to put short sides to the prevailing wind) and location on the sunnier side of the Dye Water valley readily apparent.
- Appreciate: in views of the asset from the adjacent upland fringes, the buildings and their main axes and wider relationships become clearer.
- Experience: sense of farmstead being ‘hunkered down’ into neighbouring slopes, and physical appreciation of the shelter and sunlight afforded by the location of the buildings. Relatively frequent service vehicles / contractors accessing Fallago Rig wind farm via the adjacent track reduce sense of remoteness.

- Functional relationships with watercourses and associated flood plains as better-quality agricultural land, and proximity to upland grazing.
  - Understand: proximity to floodplains and lower hill slopes easily discernible on site.
  - Appreciate: very clear distinction in vegetation and topography between rough grazing and areas with greater potential for agricultural use.
  - Experience: rationale for site selection is tangible, as the sight and sounds of the watercourses set the framework, and the surrounding hills clearly delineate probable locations of fields and grazings.
- Views down the valley of the Dye Water to enable observation of livestock and any people passing through the landscape.
  - Understand: views clear on site, and likely expanded by vegetation management and cut-and-fill for the Fallago Rig access road.
  - Appreciate: readily appreciable from the valley floor, and particularly in elevated viewpoints on the slopes above the asset.
  - Experience: long views are not possible from the valley floor, but the connection to possible neighbouring contemporary farmsteads is likely to have been valuable, underlined by the relative isolation.

Baseline level of integrity

3.16 Although situated on the upland edge, the setting of the asset has been altered through the insertion of a relatively recent beater's hut, a corrugated metal fodder and agricultural materials store, and the Fallago Rig access road including the modern bridge crossing Kersons Cleugh immediately adjacent to the scheduled area. The road, bridge and embanked access ramp for the beater's hut serve to sever the asset somewhat from the river, and relatively frequent vehicles are an incongruous influence.

3.17 Tips of the Fallago Rig turbines are visible above the hills to the west, as is the access road, winding its way over the lower slopes.

3.18 The asset's setting therefore has a medium to high degree of relative integrity. While the issues identified do detract from the current experience of the asset, all its key relationships remain broadly intact and legible.

Impacts of change

Change to cultural significance

3.19 The contribution that setting makes to the cultural significance of the asset will not be affected by the introduction of the Proposed Development.

3.20 The elements of setting that are fundamental to supplementing the understanding and importance of the archaeological remains and the spatial and functional relationships of the asset will remain intact. The ability to see turbines from and in-combination with the asset will not materially alter the ability to understand or appreciate these relationships. Again, as indicated below, it is the experience of these factors that will be altered by the introduction of the Proposed Development.

Change to integrity of setting

3.21 The Proposed Development will result in the following physical changes in the landscape:

- Presence of turbines less than 1km from the asset in an arc of approximately 180° to the west.
  - Turbines all located beyond the skyline, outside the valley of the Dye Water.
  - Proximity and height of turbines would be prominent in views.
- Reinforcement of access network to facilitate construction and operation of the wind farm.
  - Directly adjacent to the asset, although major works not anticipated.

3.22 These changes are assessed as introducing the following impacts on the integrity of the asset's setting:

Table 3.2: Impacts on integrity / factors of setting

Factor of setting (summary)	Understanding	Appreciation	Experience
Sheltered, secluded location, tucked into Kersons Cleugh	Unchanged; ability to understand building orientation, proximity of relevant resources and communication routes intact.	Views of asset from upland fringes extant, and ability to appreciate relationships unchanged. Turbines prominent in in-combination views, but do not meaningfully alter appreciation of key relationships.	Physical appreciation of sheltered location, and proximity of resources unchanged. Turbines prominent and, particularly to the south, very large. Changes perception of

Factor of setting (summary)	Understanding	Appreciation	Experience
			relatively isolated farmstead. **Medium change**
Functional relationships with watercourses and associated flood plains as better-quality agricultural land, and proximity to upland grazing	Unchanged	Unchanged – distinctions between better quality land and marginal grazings very clear.	Physicality of the asset's location, sounds of the watercourses, and enclosed and logical nature of the asset remains clear. Presence of turbines a distraction, but no meaningful impact on experience of functional relationships. **Negligible change**
Views down the valley of the Dye Water to enable observation of livestock and any people passing through the landscape.	Unchanged; views clear on site and ability to understand relationships not meaningfully affected	Views and strategic value of connections to neighbouring farmsteads readily appreciable on site. Turbines generally behind the viewer when looking east down the Dye Water; on the periphery of views up the valley to the west.	While the key views are unchanged, the presence of very large turbines on the hills above the farmstead reduces the sense of relative isolation and the need for observation. **Medium change**

Judgement on ‘integrity test’

3.23 As Table 3.2 above illustrates, it is the experience of the factors of setting of the Byrecleugh farmstead that will be impacted by the Proposed Development. While the presence of turbines in the landscape is intrusive, principally as a consequence of their proximity and height, the visitor will retain the ability to understand and appreciate all of the key relationships of the asset.

3.24 Changes to the experience of these ‘factors of setting’ will be adversely affected, but to a limited extent. The key area of change is in diminishing the sense of isolation that informs the experience of the asset – although it should be noted that this has already been eroded somewhat by the adjacent access road for the Fallago Rig wind farm. Viewed in the context of the other changes – and the lack of effects to the cultural significance of the asset, and the ability to understand and appreciate that significance, this is judged to constitute an adverse, but **not significant**, impact on the integrity of the asset’s setting.

Chapter 4

Conclusion

4.1 The analysis of the EIA findings set out above demonstrates that there will be **no significant adverse impact on the integrity of the setting** of the Mutiny Stones (SM361) or the Byrecleugh farmstead (SM4549) as a consequence of the Proposed Development.

4.2 There will be adverse impacts as a consequence of setting change – reflected in the 'moderate', and significant for the purposes of EIA, effect noted in the EIA Report – arising from change to the experience of the assets. Nevertheless, the cultural significance of the assets, and the ability to understand and appreciate the 'factors of setting', in the terms of the adopted Rigg Hill definition, remain intact.

4.3 For this reason, the test set by NPF4 Policy 7 h ii is passed by the Proposed Development as significant impacts on the integrity of setting have been avoided. Similarly, the third limb of the policy, requiring the demonstration of 'exceptional circumstances, is not engaged.

4.4 It should also be noted that the archaeological/scientific value of the assets, which represents the larger part of their cultural significance, will also remain unchanged.

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