



# Chapter 5: Policy and Legislative Context

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Department: ERM  
Project: Springfield Solar Farm and BESS  
Document Code: 0733745

May 2025

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## 5 POLICY AND LEGISLATIVE CONTEXT

### 5.1 Introduction

- 5.1.1.1 This Chapter identifies the relevant international, national and local planning policy and legislation that is of particular relevance to the Proposed Development.
- 5.1.1.2 This Chapter also sets out the relevant adopted planning policy context against which the application for planning permission will be determined.
- 5.1.1.3 A Planning Statement will accompany the application for consent for the Proposed Development including a full analysis of the proposal against the policy context.

### 5.2 International Climate Change Policy Context

- 5.2.1.1 The Paris Agreement is a legally binding international treaty on climate change, which was adopted by 196 Parties at the UN Climate Change Conference ('COP21') in Paris in December 2015 before coming into force in November 2016. The goal of the Paris Agreement is to prevent the increase in the global average temperature from reaching 2°C above pre-industrial levels, and to pursue efforts to limit the increase to 1.5°C.
- 5.2.1.2 The Paris Agreement requires participating countries to commit to highly ambitious reductions in greenhouse gas ('GHG') emissions. Each country that signed up to the Paris Agreement set out their national climate action plans, known as Nationally Determined Contributions ('NDCs'), for reducing GHG emissions. The target for the UK for 2030 was a 68% reduction on 1990 emissions levels.
- 5.2.1.3 The 26<sup>th</sup> UN Climate Change Conference ('COP26') was held in Glasgow in October – November 2021. The Glasgow Climate Pact was established to incorporate the aims of limiting temperature rise to 1.5°C. All countries agreed to revisit and strengthen their NDCs to 2030. The Paris Rulebook, the guidelines for how the Paris Agreement is delivered, was also finalised at COP26. This will allow for the full delivery of the Paris Agreement, after agreement on a transparency process which will hold countries accountable for delivering on their targets.
- 5.2.1.4 The 27<sup>th</sup> UN Climate Change Conference ('COP27') was held in Sharm El-Sheikh in November 2022. The Sharm el-Sheikh Implementation Plan was agreed, which includes a commitment to provide money to developing nations to help them recover from climate change, and the importance of food security was recognised for the first time.
- 5.2.1.5 The 28<sup>th</sup> Climate Change Conference ('COP28') was held in Dubai in November-December 2023 and placed greater emphasis on the phasing down of coal power as part of transitioning away from fossil fuels.
- 5.2.1.6 The 29<sup>th</sup> Climate Change Conference ('COP29') was held in Baku in November 2024. Key outcomes include agreement on climate finance payments to developing countries by 2025.
- 5.2.1.7 The Paris Agreement and recent Climate Change Conferences represent a commitment which renewable energy and GHG reduction targets in the UK seek to meet, which are established in UK and Scottish legislation and are described in the following sections.

## 5.3 UK Policy and Legislative Context

- 5.3.1.1 The following Acts of Parliament, which are part of UK-wide legislation, and Government policy papers are relevant to the Proposed Development.

### 5.3.2 Climate Change Act 2008

- 5.3.2.1 The Climate Change Act 2008<sup>1</sup> ('the 2008 Act') set out a commitment to reduce GHG emissions by 80% against 1990 levels by 2050 and provides a system of carbon budgeting with a series of five-year carbon budgets from 2008 to 2050. The 2008 Act also established the Committee on Climate Change ('CCC'), which reports to Parliament on progress made in reducing GHG emissions.
- 5.3.2.2 In June 2019, The Climate Change Act 2008 (2050 Target Amendment) Order 2019 revised the GHG reduction target to a 100% (or 'net zero') reduction against 1990 levels by 2050.
- 5.3.2.3 There are six carbon budgets covering 2008 to 2037. The UK is currently in the Fourth Carbon Budget period (2023 to 2027). The Fourth Carbon Budget was set at 1,950 million tonnes of carbon dioxide equivalent (MtCO<sub>2</sub>e) and was implemented via the Carbon Budget Order 2011.

### 5.3.3 Clean Power 2030 Action Plan: A New Era of Clean Electricity (2024)

- 5.3.3.1 The Clean Power 2030 Action Plan: A New Era of Clean Electricity<sup>2</sup> report was published in December 2024. The aim of the Action Plan is for the UK to accelerate its clean energy generation to increase energy security, affordability, and reduce GHG emissions, to generate at least 95% of energy generation from clean sources. The Action Plan builds on the National Energy System Operator's (NESO's) Clean Power 2023<sup>3</sup> report.
- 5.3.3.2 The Action Plan outlines that the grid connections process will be reformed to prioritise viable projects in the connection queue, over those which are speculative or do not have the necessary funding or planning permission to progress. It also notes that the current legislative framework for electricity infrastructure consenting in Scotland is not fit for purpose. It states the UK and Scottish Governments have worked closely together on reforms to the consenting regime, with consultation ongoing to gather evidence on proposals to streamline the existing consenting system, to encourage acceleration towards 2030.

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<sup>1</sup> HM Government (2008) *The Climate Change Act 2008* [Online] Available at: <https://www.legislation.gov.uk/ukpga/2008/27/contents>. (Accessed 14/02/2025).

<sup>2</sup> Department for Energy Security and Net Zero (2024) *Clean Power 2030 Action Plan: A New Era of Clean Electricity* [Online] Available at: <https://www.gov.uk/government/publications/clean-power-2030-action-plan>. (Accessed 20/02/2025).

<sup>3</sup> National Energy System Operator (2024) *Clean Power 2030* [Online] Available at: <https://www.neso.energy/publications/clean-power-2030>. (Accessed 20/02/2025).

- 5.3.3.3 In addition, there is a commitment from the Scottish Government to support greater deployment of solar in Scotland, including through the forthcoming Solar Vision from Scottish Government which will form part of the Energy Strategy and Just Transition Plan.
- 5.3.3.4 The Planning and Infrastructure Bill<sup>4</sup> is progressing through the UK Parliament and part of the Bill concerns electricity consenting in Scotland where reform of the system, where it can currently take up to four years to issue a decision in some cases, is essential to achieving the Scottish Government's net zero targets. The Bill represents the outcomes from the consultation undertaken in late 2024.
- 5.3.3.5 The Scottish Government determines applications to construct or install electricity infrastructure under the Electricity Act 1989 – both for generating stations over 50 MW (and some offshore generating stations over 1 MW) and for network projects. The current system is outdated and does not easily accommodate the scale and number of electricity projects coming forward. The aim of the proposed reforms is to create a robust, timely and proportionate consenting process which involves communities and relevant planning authorities meaningfully in decision-making. The new consenting process would aim to balance community engagement and environmental sensitivity whilst being more efficient in decision-making. It should be noted that the changes are to be implemented through the Planning and Infrastructure Bill, which was introduced in the UK Parliament on the 11th March, following close collaboration between the UK and Scottish governments. The timeline of implementation of the Bill's provisions once enacted into law is currently unknown but there are imminent likely changes that developers should take into account when preparing applications.

### **5.3.4 Powering Up Britain: Energy Security Plan (March 2023)**

- 5.3.4.1 The Powering Up Britain Energy Security Plan<sup>5</sup> ('ESP') was published in March 2023, and builds on the Security Strategy and the Net Zero Strategy (NZS). The ESP emphasises the importance of decarbonisation of the energy sector in gaining energy security and independence.
- 5.3.4.2 The ESP outlines an aim for 70 gigawatts (GW) of ground and rooftop solar capacity by 2035, a five-fold increase on current capacity. The ESP reiterates the importance of solar power in meeting energy security and climate change goals, in particular ground-mounted solar, as it is one of the cheapest forms of electricity generation and is readily deployable at scale.

### **5.3.5 British Energy Security Strategy (April 2022)**

- 5.3.5.1 The British Energy Security Strategy<sup>6</sup> was published in April 2022 and sets out the Government's plan to achieve greater energy independence. The Strategy emphasises the

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<sup>4</sup> UK Parliament, *UK Planning and Infrastructure Bill* (2025) [Online] Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-10216/CBP-10216.pdf>

<sup>5</sup> Department for Energy Security and Net Zero (2023) *Powering Up Britain: Energy Security Plan* [Online] Available at: <https://www.gov.uk/government/publications/powering-up-britain/powering-up-britain-energy-security-plan>. (Accessed 14/02/2025).

<sup>6</sup> Department for Business, Energy & Industrial Strategy (2022) *British Energy Security Strategy* [Online] Available at: [British Energy Security Strategy \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/british-energy-security-strategy.pdf). (Accessed 14/02/2025).

importance of transitioning from fossil fuels to clean renewable sources for greater energy security. Government measures and targets to increase deployment of renewable energy sources, including solar energy, are set out in the Strategy. A five-fold increase in deployment of solar energy is expected by 2035 and the Government intends to make amendments to planning policies to support this deployment.

- 5.3.5.2 The Energy Act 2023 received Royal Assent in October 2023. The Energy Act 2023 builds on the ESS' aims to achieve greater energy independence and security, and the importance of transitioning from fossil fuels to clean renewable energy sources to achieve this.

### 5.3.6 Net Zero Strategy: Build Back Greener (October 2021)

- 5.3.6.1 The Net Zero Strategy<sup>7</sup> ('NZS') was published in October 2021 and includes policies to help the UK meet its carbon budgets set under the 2008 Act. The NZS includes plans for emissions reductions across sectors, including the power sector. The NZS states that the net zero economy will be underpinned by clean electricity and commits to fully decarbonising the power system by 2035.

### 5.3.7 Energy White Paper: Powering Our Net Zero Future (December 2020)

- 5.3.7.1 The Energy White Paper 'Powering our Net Zero'<sup>8</sup>, published on 14<sup>th</sup> December 2020, builds on the Government's 'Ten Point Plan' to set out a strategy for moving towards cleaner energy systems. Chapter 2 of the White Paper considers power generation specifically and highlights the importance of accelerating the deployment of clean electricity generation in decarbonisation.

- 5.3.7.2 With regards to solar, the White Paper states that:

*"Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. 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."*

### 5.3.8 CCC Progress Reporting on Reducing Emissions (2019–2023)

- 5.3.8.1 The 'Net Zero – The UK's Contribution to Stopping Global Warming'<sup>9</sup> report was published by the CCC in May 2019, which responded to a request from the Governments of the UK, Wales and Scotland, to reassess the UK's long-term emissions targets.

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<sup>7</sup> Department for Energy Security and Net Zero (2021) *Net Zero Strategy: Build Back Greener* [Online] Available at: <https://www.gov.uk/government/publications/net-zero-strategy>. (Accessed 14/02/2025).

<sup>8</sup> Department for Energy Security and Net Zero (2020) *Energy White Paper Powering our Net Zero* [Online] Available at: <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>. (Accessed 14/02/2025).

<sup>9</sup> Climate Change Committee (2019) *Net Zero – The UK's contribution to stopping global warming* [Online] Available at: <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>. (Accessed 14/02/2025).

- 5.3.8.2 In June 2023, the CCC published their latest Report to the UK Parliament entitled 'Progress in Reducing Emissions'<sup>10</sup>. In the Foreword Lord Deben, Chair of the CCC states:

*"Our confidence in the achievement of the UK's 2030 target and the Fifth and Sixth Carbon Budgets has markedly declined from last year. Leadership is required to broaden the national effort to every corner of our economy. That means investing now in low-carbon industries to deliver lasting economic benefits to the UK."*

- 5.3.8.3 The Report also outlines that:

*"In a range of areas, there is now a danger that the rapid deployment of infrastructure required by the Net Zero transition is stymied or delayed by restrictive planning rules. The planning system must have an overarching requirement that all planning decisions must be taken giving full regard to the imperative of Net Zero."*

## 5.4 Scottish Policy and Legislative Context

- 5.4.1.1 The following Acts and policies passed by the Scottish Parliament are relevant to the Proposed Development.

### 5.4.2 Climate Change (Scotland) Act 2009

- 5.4.2.1 The Climate Change (Scotland) Act 2009<sup>11</sup> created the statutory framework for greenhouse gas (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.
- 5.4.2.2 The 2009 Act also established climate change duties required to be exercised by Public Bodies and which came into force in January 2011. These include the Scottish Government, Local Authorities, healthcare organisations including the NHS in Scotland, educational institutions and transport authorities.

### 5.4.3 Climate Change (Emissions Reduction Targets) (Scotland) Act 2024

- 5.4.3.1 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024<sup>12</sup> builds upon the 2009 Act and maintains the goal of achieving net-zero emissions by 2045. It introduces Carbon Budgets which replaces annual and interim targets with carbon budgets, which cover five-year periods. Each budget sets the maximum amount of greenhouse gas emissions allowed during that period. It requires the Scottish Government to prepare a new Climate Change Plan following the setting of each carbon budget with a requirement for public consultation during the preparation of the Climate Change Plan.

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<sup>10</sup> Climate Change Committee (2023) *Progress in Reducing Emissions* [Online] Available at: <https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/>. (Accessed 14/02/2025).

<sup>11</sup> Scottish Government (2009). 'Scottish Government (2009) The Climate Change (Scotland) Act 2009'. [Online] Available: <https://www.legislation.gov.uk/ukxi/2019/1056/contents/made> (Accessed August 2024).

<sup>12</sup> HM Government (2019) *The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024* [Online] Available at: <https://www.legislation.gov.uk/asp/2024/15/contents>. (Accessed 18/02/2025).

#### 5.4.4 Climate Emergency Declaration

- 5.4.4.1 In April 2019 the Scottish Government declared a climate emergency, which instigated a commitment to enforcing stronger climate change proposals and targets whilst delivering support to the transition to a low carbon economy.

#### 5.4.5 East Lothian Council Climate Emergency

- 5.4.5.1 A motion declaring a climate emergency was passed by East Lothian Council on August 27th, 2019, with a call “to make all our Council Services net zero carbon as soon as reasonably practicable or in any case by 2045 and to lobby, support and work with all relevant agencies, partners and communities to fulfil this commitment. East Lothian Council will also commit to work with our communities and partners towards making East Lothian a carbon neutral county as well as enabling the county to deliver its part of wider national and international commitments.”<sup>13</sup>

### 5.5 Energy Policy

#### 5.5.1 The Scottish Energy Strategy 2017: The Future of Energy in Scotland

- 5.5.1.1 The Scottish Energy Strategy 2017: The Future of Energy in Scotland<sup>14</sup> outlines the vision for the future energy system in Scotland, up until 2050, with key priorities being the development of an integrated approach that considers both the use and supply of energy for heat, power and transport. It aims to strengthen the development of local energy projects, protect consumers and support the development of climate change policies. In addition, it states that Scotland’s long term climate change targets will require the complete decarbonisation of its energy grid, with renewable energy therefore meeting a very significant share of the country’s energy requirements.

#### 5.5.2 Draft Energy Strategy and Just Transition Plan (January 2023)

- 5.5.2.1 Further support for large scale solar can be found in the draft Energy Strategy and Just Transition Plan for Scotland<sup>15</sup>. This sets out the Scottish Government’s key ambitions for energy, including the following key ambition “*Increased contributions from solar, hydro and marine energy to our energy mix*”. It further states that “*Our aim is to maximise the contribution solar can make to a just, inclusive, transition to net zero. We will support the sector to minimise barriers to deployment wherever possible and continue to provide support through our renewable support schemes*”. In addition, it sets out the ambition: “*Generation of surplus*

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<sup>13</sup> East Lothian Council (2019). ‘East Lothian Council Climate Emergency Declaration’. [Online]. Available: [Climate Emergency declared | East Lothian Council](#) (Accessed August 2024)

<sup>14</sup> Scottish Government (2017). ‘The Scottish Energy Strategy: the future of energy in Scotland’. [Online] Available: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2017/12/scottish-energy-strategy-future-energy-scotland-9781788515276/documents/00529523-pdf/00529523-pdf/govscot%3Adocument/00529523.pdf>. (Accessed August 2024).

<sup>15</sup> Scottish Government (2023). ‘Draft Energy Strategy and Just Transition Plan’. [Online] Available: <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/>. (Accessed August 2024).

*electricity, enabling the export of electricity and renewable hydrogen to support development of our own resources and additional energy storage’.*

- 5.5.2.2 The draft Solar Vision for Scotland<sup>16</sup>, contained in this document, lays out a strong supportive policy and enabling environment for additional solar energy developments, without naming specific targets for deployment.
- 5.5.2.3 In October 2023, the Scottish Government announced a proposal for a solar deployment ambition of 4 – 6 GW by 2030<sup>17</sup>. The letter to the Net Zero, Energy and Transport Committee states that there has been significant industry interest for the Scottish Government to consider setting a solar deployment ambition. A final decision on the proposed solar deployment target is due to be published with the Energy Strategy and Just Transition Plan.

### 5.5.3 UK Change of Government – Clean Power 2030 Action Plan

- 5.5.3.1 The UK general election of July 2024 brought into office a new Government with significant manifesto commitments regarding climate and energy. The most relevant action to the Proposed Development is the publication of a new key policy document, “Clean Power 2030 Action Plan: A new era of clean electricity”<sup>18</sup> published in December 2024 with the support of the Scottish Government. This focuses on planning and electricity legislation reform, for example, through the aforementioned Planning and Infrastructure Bill.

## 5.6 Planning Policy and Guidance

### 5.6.1 Planning Context

- 5.6.1.1 This Section sets out the planning policy that is relevant to the Proposed Development and defines the requirements to achieve planning permission.
- *The Electricity Act 1989 and the Electricity Works (Environmental Impact Assessment) (Scotland) 2017*: in this Environmental Impact Assessment Report (EIAR) the applicant needs to demonstrate that the necessary and appropriate surveys, analysis and reporting has been undertaken to meet the requirements as set out in this legislation;
  - *National Planning Policy Framework 4 (NPF4)*: this document sets out the policies of the Scottish Government in order to achieve its planning objectives. This is the primary policy source to inform the nature, location, form and scale of a renewable energy development in planning terms;
  - *East Lothian Local Development Plan 2018*: each Planning Authority (PA) in Scotland has a Local Development Plan that has been developed by it in consultation with its communities and other consultees and then adopted by the local Council so that it has democratic legitimacy. Whilst the PA is not the consenting authority in the case of this

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<sup>16</sup> Draft Solar Vision for Scotland. <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/> [Online] (Accessed January 2025).

<sup>17</sup> Scottish Government (2023) Announcement of a Solar Ambition for Scotland [Online] Available: <https://www.gov.scot/publications/foi-202400392034/> (Accessed May 2025).

<sup>18</sup> Clean Power 2030 Action Plan: A new era of clean electricity. <https://www.gov.uk/government/publications/clean-power-2030-action-plan> (Accessed January 2025)

application, it is a key statutory consultee whose response to the application carries considerable weight;

- *East Lothian LDP2*: this is the 'Emerging' LDP to replace the one adopted in 2018;
- *East Lothian Supplementary Planning Guidance*: each PA typically adopts a range of documents in order to provide further detailed guidance on a particular subject area or geographical locale. An LDP is supported by range of statutory and non-statutory guidance:
  - Climate Evolution (Draft) SPG 2020;
  - Countryside and Coast SPG 2018;
  - Special Landscape Areas (Part 1) SPG 2018;
  - Special Landscape Areas (Part 2) SPG 2018;
  - Sustainable Urban Drainage SPG 2019; and
- *East Lammermuir Local Place Plan 2024-2034*: these were introduced by the Planning (Scotland) Act 2019 and offer local communities to put forward proposals for development and use of land. A Local Place Plan can be a material consideration in planning terms.

## **5.6.2 The Electricity Act 1989 and the Electricity Works (Environmental Impact Assessment) (Scotland) 2017**

- 5.6.2.1 This application is submitted under Section 36 (S36) of the Electricity Act 1989 (including deemed planning permission under Section 57(2) of the Town and Country (Scotland) Act 1997) and the Electricity Works (Environment Impact Assessment) (Scotland) 2017. Legislation requires onshore electricity generating stations with capacities that exceed 50 MW to be approved by the Scottish Government's Energy Consents Unit which is responsible for processing energy applications for Scottish Ministers.

## **5.6.3 UK Planning and Infrastructure Bill, March 2025**

- 5.6.3.1 In March of 2025 the UK Government published its Planning and Infrastructure Bill<sup>19</sup> and it received its first reading in the House of Commons. The aim of the Bill is to streamline the delivery of new homes and critical infrastructure. Whilst most of the Bill only applies in England and Wales, it proposes amendments to the Electricity Act to speed up the consenting process in Scotland. These will not yet be law at the time of this application, but some provisions of the new Bill may apply to this application, if the Bill is enacted and its provisions are implemented by Scottish Ministers during the life of this application.

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<sup>19</sup> Planning and Infrastructure Bill. [Online] Available at: <https://www.gov.uk/government/publications/the-planning-and-infrastructure-bill>. (Accessed March 2025)

## 5.6.4 National Planning Framework 4 (NPF4) (2023)

5.6.4.1 The National Planning Framework 4 (NPF4)<sup>20</sup> sets out the Scottish Government's planning policies for Scotland and how these are to be applied. The National Planning Framework 4 identifies six overarching spatial principles, several of which are relevant to the Springfield Farm Solar PV and BESS development. These are:

- **Just transition.** We will empower people to shape their places and ensure the transition to net zero is fair and inclusive;
- **Conserving and recycling assets.** We will make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy;
- **Rebalanced development.** We will target development to create opportunities for communities and investment in areas of past decline, and manage development sustainably in areas of high demand; and
- **Rural revitalisation.** We will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.

5.6.4.2 The aim of these principles is to support 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.”

### National Developments

5.6.4.3 The NPF4 also identifies eighteen ‘*National Developments*’ which are specifically supported by national planning policy. These are developments deemed to be of national importance that will help deliver the spatial strategy.

5.6.4.4 **National Development 3:** ‘*Strategic Renewable Electricity Generation and Transmission Infrastructure*’ supports “*On and offshore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity*”. This National Development is not geographically bound and applies throughout Scotland.

5.6.4.5 At greater than 50 MW capacity, the Proposed Development qualifies as a National Development under this policy.

### Regional Priorities

5.6.4.6 The Proposed Development is located in the South region of Scotland as identified in NPF4.

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<sup>20</sup> Scottish Government (2023) ‘National Planning Framework 4’. [Online]. Available at: <https://www.gov.scot/publications/national-planning-framework-4/> (Accessed March 2025)

- 5.6.4.7 Priorities for the South includes aiming to *“Protect environmental assets and stimulate investment in natural and engineered solutions to climate change and nature restoration...”* and to *“Support local economic development whilst making sustainable use of the area’s world-class environmental assets to innovate and lead greener growth”*.

#### Relevant NPF4 Policies

- 5.6.4.8 This Section details the policies set out in NPF4 that are relevant to the Proposed Development:

- **Policy 1, Tackling the Climate and Nature Crises**, states that “When considering all development proposals significant weight will be given to the global climate and nature crises”.
  - **Policy 2, Climate Mitigation and Adaptation**, intends to “encourage, promote and facilitate development that minimises emissions...”.
  - **Policy 3, Biodiversity**, states that “Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management”.
  - **Policy 4, Natural Places**, contains provisions designed to ensure that “Natural places are protected and restored” and that “Natural assets are managed in a sustainable way that maintains and grows their essential benefits and services”. The policy includes specific provisions relating to developments affecting European Sites (Special Area of Conservation or Special Protection Areas), National Parks, National Scientific Areas, Sites of Special Scientific Interest or National Nature Reserves, Ramar Sites, Local nature conservation or landscape areas, protected species habitats, and ‘wild land’.
  - **Policy 5, Soils** aims to protect and manage soils sustainably. This policy emphasizes the importance of preserving carbon-rich soils, restoring peatlands, and minimizing soil disturbance from development. When it comes to the use of prime agricultural land for renewable energy projects, NPF4 encourages careful consideration to ensure that such developments do not compromise the quality and productivity of these valuable soils. The policy supports renewable energy projects that are designed to minimize soil disturbance and promote soil health.
  - **Policy 11, Energy** intends “To encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage...”.
- This is a key policy and reads as thus:
- a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:
- i. wind farms including repowering, extending, expanding and extending the life of existing wind farms;
  - ii. enabling works, such as grid transmission and distribution infrastructure;
  - iii. energy storage, such as battery storage and pumped storage hydro;
  - iv. small scale renewable energy generation technology;

- v. solar arrays;
  - vi. proposals associated with negative emissions technologies and carbon capture; and
  - vii. proposals including co-location of these technologies.
- b) Development proposals for wind farms in National Parks and National Scenic Areas will not be supported;
- c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;
- d) Development proposals that impact on international or national designations will be assessed in relation to Policy 4;
- e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:
- i. impacts on communities and individual dwellings, including; residential amenity, visual impact, noise and shadow flicker;
  - ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
  - iii. public access, including impact on long distance walking and cycling routes and scenic routes;
  - iv. impacts on aviation and defence interests including seismological recording;
  - v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
  - vi. impacts on road traffic and on adjacent trunk roads, including during construction;
  - vii. impacts on historic environment;
  - viii. effects on hydrology, the water environment and flood risk;
  - ix. biodiversity including impacts on birds;
  - x. impacts on trees, woods and forests;
  - xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
  - xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
  - xiii. cumulative impacts. In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid

infrastructure, consideration should be given to underground connections where possible. Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

- **Policy 20 – Blue and Green Infrastructure:** This policy seeks to protect and enhance blue and green infrastructure. Development proposals incorporating new or enhanced blue and/or green infrastructure will be supported;
- **Policy 22 – Flood Risk and Water Management:** This policy states that developments should not increase the risk of surface water flooding. Surface water should be managed through Sustainable Urban Drainage Systems (SUDS), and impermeable surfaces should be minimised where possible; and
- **Policy 23 – Health and Safety:** This proposal seeks to protect residential amenity, and should be designed to have no adverse impacts on health and wellbeing. Development proposals to have significant adverse effects on air quality, or raise unacceptable noise impacts, will not be supported.
- **Policy 26, Business and Industry,** states that  
*“d) Development proposals for business, general industrial and storage and distribution uses areas identified for those uses in the LDP will only be supported where:  
It is demonstrated that there are no suitable alternatives allocated in the LDP or identified in the employment land audit; and  
The nature and scale of the activity will be compatible with the surrounding area.”*
- **Policy 29, Rural Development,** intends “To encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced”.

## 5.6.5 Local Policy Context

- 5.6.5.1 The East Lothian Local Development Plan (LDP2) (2018)<sup>21</sup> is the Local Development Plan (LDP) applicable to the Site and, alongside NPF4, represents the Development Plan for the area.

### East Lothian Local Development Plan

- 5.6.5.2 Given the scale of the Proposal Development, the Council is not the decision maker, and the primary policy document will be NPF4. However, it is an important consultee and its LDP is a source of policy that will have to be given due regard as compliance with it will assist in gaining consent from Scottish Ministers.
- 5.6.5.3 The LDP sets out its vision for East Lothian which includes a range of objectives that will work towards sustainable development. The policies in the document aim to support growth whilst protecting those characteristics that make East Lothian special.

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<sup>21</sup> East Lothian Council (2018) ‘Local Development Plan’ [Online]. Available at: [https://www.eastlothian.gov.uk/info/210547/planning\\_and\\_building\\_standards/12242/local\\_development\\_plan](https://www.eastlothian.gov.uk/info/210547/planning_and_building_standards/12242/local_development_plan) (Accessed March 2025)

- 5.6.5.4 The Plan includes the following policies of relevance to the Proposed Development as identified against the relevant EIA topic.

Sustainability & Climate Change

- 5.6.5.5 Policy SEH1: Sustainable Energy and Heat

*“The Council supports the principles of the ‘energy hierarchy’ and promotes energy-efficient design in new development. The council supports the principle of combined heat and power schemes and energy generation from renewable or low carbon sources”.*

Other relevant LDP policies

- 5.6.5.6 This Section details the other LDP policies that are relevant to the Proposed Development. These policies and subject areas are covered in detail in the relevant Chapter of the EIA.

POLICY AREA	EIA REPORT CHAPTER
Landscape & Visual	6
Cultural Heritage	7
Ecology, Ornithology, Biodiversity and Arboriculture	8
Water Resources & Flood Risk	9
Geology & Soils	10
Traffic and Transport	11
Noise	12
Socio-economics	13
Air Quality	14

### Traffic & Transport

- 5.6.5.7 **Policy T1: Development Location and Accessibility:** New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council’s standards. The submission of Travel Plans may also be required in support of certain proposals.
- 5.6.5.8 **Policy T2: General Transport Impact:** New development must have no significant adverse impact on: road safety; public transport; cycling; capacity of the local road network; and residential amenity as a consequence of an increase in motorised traffic. In addition, where the impact of development on the transport network requires mitigation this will be provided by the developer and secured by the Council by planning condition and / or legal agreement where appropriate.

- 5.6.5.9 **Policy T4: Active Travel Routes and Core Paths as part of the Green Network Strategy:** the Council will protect its existing core path and active travel networks and ensure that new development does not undermine them, including the convenience, safety and enjoyment of their use.

#### Socio-economics

- 5.6.5.10 **Policy DC1: Rural Diversification:** Development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for:
- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
  - b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.
- 5.6.5.11 Proposals must also satisfy the terms of Policy NH1 and other relevant plan policies including Policy DC6. **Proposals for mineral extraction and renewable energy will be assessed against the other relevant policies of the Plan.**

#### Ecology, Ornithology, Biodiversity and Arboriculture

- 5.6.5.12 **Policy NH1: Protection of Internationally designated sites:** Development proposals unconnected to the conservation management of a Natura 2000 or Ramsar site, that are assessed by the competent authority as likely to have a significant effect on the integrity of a Natura 2000 site or Ramsar site (including proposals outside the boundary of the designated site) will be subject to Appropriate Assessment. Where the Appropriate Assessment cannot rule out adverse effects upon the integrity of a Natura 2000 or Ramsar site, the proposal will only be permitted where:
- a) there are imperative reasons of over-riding public interest and there are no alternative solutions; and
  - b) compensatory measures are provided to ensure that the overall coherence of the Natura 2000 network is protected.
- 5.6.5.13 Candidate Natura 2000 sites will be treated as if they were already designated.
- 5.6.5.14 **Policy NH2: Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites:** Development that would adversely affect a Site of Special Scientific Interest (SSSI) or Geological Conservation Review site will only be permitted where it can be demonstrated that:
- a) the objectives of designation and overall integrity of the site will not be compromised;
  - b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits of national importance;
  - c) there are no alternative solutions; and
  - d) appropriate mitigation will be provided.
- 5.6.5.15 Where proposals affect non-notified features within a site, this will be considered against criteria in Policy NH3.

- 5.6.5.16 **Policy NH3: Protection of Local Sites and Areas:** Local Biodiversity Sites and Local Geodiversity Sites are designated as Local Nature Conservation Sites. Details of these sites are set out in Technical Note 10: Planning for Biodiversity (2016) and Technical Note 11: Planning for Geodiversity (2016). Development that would adversely affect the interest of a Local Nature Conservation Site, Local Nature Reserve or Country Park will only be permitted where it is demonstrated that any damage to the natural heritage interest or public enjoyment of the site is outweighed by the economic, social or environmental benefits of the development and suitable mitigation will be secured.
- 5.6.5.17 **Policy NH4: European Protected Species:** Proposals that may have an impact on European protected species will only be permitted where:
- there are imperative reasons of overriding public interest or for public health and safety;
  - there is no satisfactory alternative;
  - favourable conservation status of the species can be maintained; and
  - a species protection plan has been submitted, which is based on survey results and includes details of the status of European protected species on site and how possible adverse effects are to be mitigated.
- 5.6.5.18 **Policy NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species:** Developers must demonstrate, where relevant, how impacts on biodiversity and geodiversity have been addressed as part of their proposals. Sufficient supporting information should be submitted. New development that would result in:
- an adverse impact to nationally protected species;
  - an adverse impact to the biodiversity value of the development site or the surrounding area (for example through fragmentation or loss of habitat);
  - serious damage to or destruction of a significant geodiversity feature; or
  - will only be permitted where the loss is clearly outweighed by the public benefit of the development and suitable mitigation has been proposed and will be secured.
- 5.6.5.19 Proposals should indicate how they have had regard to the mitigation hierarchy, the potential for incorporating biodiversity or geodiversity features within the site into the proposal in a positive way where appropriate, and for providing on-site or off-site enhancements. Where relevant, a species protection plan based on survey results must be submitted including details of the status of nationally protected species on site and how possible adverse effects will be mitigated.
- 5.6.5.20 **Policy NH7: Protecting Soils:** Development on prime quality agricultural land or rare or carbon rich soils, such as peat, will not be permitted unless:
- It is to implement a proposal of this plan, or
  - It is necessary to meet an established need, and no other suitable site is available; or
  - It is for an appropriate development in the countryside, including that which is directly linked to a rural business or an existing house; and

- The layout, design and construction methods of development minimises the amount of such land that is affected, taking into account the design policies of the plan.
- 5.6.5.21 Proposals for renewable energy generation or mineral extraction on prime quality agricultural land may also be acceptable where provision is made for restoration of the land to its former status and if soil will be reused where feasible. In the case of carbon rich soils, in order that the Council may assess the merits of the proposal, applicants must demonstrate the effect it would have on CO2 emissions as a result of its construction and where relevant operation.
- 5.6.5.22 **Policy NH8: Trees and Development:** There is a strong presumption in favour of protecting East Lothian's woodland resources. Development affecting trees, groups of trees or areas of woodland will only be permitted where:
- Any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout, and wherever possible such trees and hedges should be incorporated into public open space and not into private gardens or areas; or
    - in the case of woodland, its loss is essential to facilitate development that would achieve significant and clearly defined additional public benefits in line with the Scottish Governments Policy on Control of Woodland Removal; in particular the loss of Ancient Woodland will not be supported; or
    - in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees.

#### Landscape & Visual

- 5.6.5.23 **Policy DC9: Special Landscape Areas:** Areas are designated as Special Landscape Areas as identified within supplementary planning guidance on Special Landscape Areas. Development within or affecting Special Landscape Areas will only be permitted where:
- it accords with the Statement of Importance and does not harm the special character of the area; or
  - the public benefits of the development clearly outweigh any adverse impact and the development is designed, sited and landscaped to minimise such adverse impacts.
- 5.6.5.24 The Council will refer to the Statement of Importance of the relevant site in assessing planning applications.
- 5.6.5.25 **Policy DP1: Landscape Character:** All new development, with the exception of changes of use and alterations and extensions to existing buildings, must:
- Be well integrated into its surroundings by responding to and respecting landform, and by retaining and where appropriate enhancing existing natural and physical features at the site, including water bodies, that make a significant contribution to the character and appearance of the area and incorporate these into the development design in a positive way;
  - Include appropriate landscaping and multifunctional green infrastructure and open spaces that enhance, provides structure to and unifies the development and assists its

integration with the surroundings and extends the wider green network where appropriate.

#### Geology & Soils

- 5.6.5.26 **Policy NH6: Geodiversity Recording and Alternative Exposures:** Where physical preservation of a significant geodiversity feature cannot reasonably be achieved, the recording of exposures, and submission of the record to the National Records Archive and East Lothian Council, will normally be required. The developer must also demonstrate that they have sought and, where practicable, will provide alternative exposures.
- 5.6.5.27 **Policy NH7: Protecting Soils:** Details in the Ecology and Ornithology, Biodiversity and Arboriculture are in **Section 5.6.5.20**.

#### Water Resources & Flood Risk

- 5.6.5.28 **Policy NG9: Water Environment:** Where relevant, new development should protect and, where appropriate, enhance the water environment, in line with the Water Framework Directive 2000 (WFD) and the Water Environment and Water Services (Scotland) Act 2003 (WEWS). Development proposals that would have a detrimental impact on the water environment will not be supported.
- 5.6.5.29 **Policy NH10: Sustainable Drainage Systems:** All development proposals must demonstrate that appropriate provision for Sustainable Drainage Systems (SuDS) has been made at the time of submitting a planning application, except for single dwellings or developments in coastal locations that discharge directly to coastal waters where there is no or a low risk to designated bathing sites and identified Shellfish Waters. Sufficient space for proposed SuDS provision, including the level and type of treatment appropriate to the scheme of the Proposed Development, must be safeguarded in site layouts. Provision must also be made for appropriate long-term maintenance arrangements to the satisfaction of the Council. A drainage assessment may also be required to show the impact of a 1 in 200-year rainstorm event. SuDS schemes should be designed with an allowance for climate change. Proposals must also demonstrate through a design-led approach how SuDS proposals are appropriate to place and designed to promote wider benefits such as placemaking, green networks and biodiversity enhancement
- 5.6.5.30 **Policy NH11: Flood Risk:** Development that would be at unacceptable risk of flooding will not be permitted. New development within areas of medium to high risk of coastal or watercourse flooding (with greater than 0.5% annual probability of flooding) should generally be avoided. All relevant development proposals will be assessed based on the probability of a flood affecting the site and the nature and vulnerability of the proposed use, taking into account the following:
- a) the characteristics of the site and any existing or previous development on it;
  - b) the design and use of the proposed development, including use of water resistant materials and construction;
  - c) the size of the area likely to flood;
  - d) depth of flood water, likely flow rate and path, and rate of rise and duration;
  - e) the vulnerability and risk of wave action for coastal sites;

- f) committed and existing flood protection methods: extent, standard and maintenance regime;
  - g) the effects of climate change, including an appropriate allowance for freeboard;
  - h) surface water run-off from adjoining land;
  - i) culverted watercourses, drains and field drainage;
  - j) cumulative effects, especially the loss of storage capacity;
  - k) cross-boundary effects and the need for consultation with adjacent authorities;
  - l) effects of flood on access including by emergency services; and
  - m) effects of flood on proposed open spaces including gardens.
- 5.6.5.31 Flood Risk Assessments will normally be required for proposals within the medium to high-risk category of flood risk. They may also be required in the low to medium category in certain circumstances, for example at the upper end of the probability range or for essential infrastructure and the most vulnerable uses. Development proposals will not be supported if they would increase the probability of flooding elsewhere. Piecemeal reduction of the functional floodplain will be resisted given the cumulative effects of reducing storage capacity.
- 5.6.5.32 Areas of land that contribute to sustainable flood management, or have the potential to do so, will also be safeguarded from inappropriate development by this policy. These areas will include locations where the Council will promote flood defences in Musselburgh and Haddington once solutions are identified through the outputs of its Local Flood Risk Management Plan.

#### Air Quality

- 5.6.5.33 **Policy NH12: Air Quality:** Impacts on air quality will be taken into account in assessing development proposals, particularly within and close to any Air Quality Management Area (AQMA). An Air Quality Assessment may be required for developments that are within an AQMA or where the Proposed Development may cause or exacerbate a breach of National Air Quality Standards. Development proposals that would result in either a breach of National Air Quality Standards or a significant increase in concentrations of air pollution within an existing AQMA will not be supported unless appropriate mitigation measures can be put in place. Financial contributions to strategic air quality mitigation measures will be necessary in these circumstances.

#### Noise

- 5.6.5.34 **Policy NH13: Noise:** The impact of noise will be taken into account when assessing relevant development proposals, particularly those that are close to or could become a source of noise. A noise impact assessment will be required where the Proposed Development may cause or exacerbate existing noise levels or be sensitive to levels of noise in the area. The assessment must specify suitable and appropriate mitigation measures that would make the proposal acceptable. Development proposals that would either result in or be subject to unacceptable levels of noise will not be supported.

## Cultural Heritage

- 5.6.5.35 **Policy CH1: Listed Buildings:** Internal or external alterations or extensions to listed buildings will only be permitted where they do not harm the architectural or historic character of the building. The demolition of a listed building will not be permitted unless the building is no longer of special interest, is incapable of repair or there are overriding environmental or economic reasons, and it must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use. New development that harms the setting of a listed building will not be permitted.
- 5.6.5.36 **Policy CH2: Development Affecting Conservation Areas:** All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. Proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces. Parking requirements of new developments must accord with the Council's adopted parking standards unless it can be demonstrated that a reduced level of parking (which in exceptional circumstances could be no parking provision) will achieve positive townscape benefits without compromising road safety.
- 5.6.5.37 The Council will set out in supplementary planning guidance more detailed policies on the circumstances in which it would support proposals for alterations to shop fronts, external security, external wall treatment and the display or installation of advertisements in Conservation Areas.
- 5.6.5.38 **Policy CH4: Scheduled Monuments and Archaeological Sites:** Where a proposed development might affect any Scheduled Monument or archaeological site (of known or suspected archaeological interest), the developer must undertake and make available to the planning authority a professional archaeological assessment and, if necessary, a field evaluation. Development that adversely impacts on a scheduled monument, or its setting, will not be permitted. Development that would harm a site of regional or local archaeological interest, or its setting, will only be permitted in exceptional circumstances, where the Council accepts that archaeological advice that the significance of the remains is not sufficient to justify their physical preservation in situ when weighed against other material considerations (including the benefits of the Proposed Development). In such situations, the developer must make proper provision for the excavation, recording and analysis of the archaeological remains in advance of the commencement of development, the results of which must be reported and any subsequent post-excavation work undertaken should also be reported and, if warranted, published. Appropriate conditions may be applied to any planning permission to achieve this. Where it is feasible within a proposed development to accommodate, preserve or enhance a Scheduled Monument or archaeological remains, interpretation and integration of these features and where appropriate, public access, will be expected.

## **East Lammermuir Local Place Plan 2024-2034 (June 2024)**

- 5.6.5.39 Local Place Plans are community-led plans that allow community bodies to actively plan for their future. The East Lammermuir Local Place Plan sets out the concerns and priorities of the community, grouped into three strands: Getting Around, Our Places, and The Land. The East Lammermuir Local Place Plan also includes an action plan structured around the three strands.

5.6.5.40 The Plan identifies the transition to net zero and its impact on the area as an overarching theme stating that *“Decarbonising the energy grid is a key concern in East Lammernmuir, in the context of large-scale energy infrastructure projects”*. Community priorities in relation to *“managing change in the just transition”* are identified as follows:

- Meaningful consultation and joined up approach to developments;
- Information about the long-term impacts – including how to recycle the infrastructure;
- Planning traffic management – with advance communication on many channels, to be agreed with the community;
- Charter which commits the developers to ongoing, meaningful consultation and information sharing;
- Balance between energy infrastructure and environmental impact;
- Energy companies commit to jobs and opportunities to young people locally; and,
- Understanding of the environmental impact on the landscape and coast.

## 5.6.6 Planning Advice Notes

5.6.6.1 The Scottish Government has published Planning Advice Notes (PANs) and planning guidance publications which provide advice and relevant information on specific planning matters. The following are relevant to the Proposed Development:

- PAN 60 Planning for Natural Heritage (2000);
- PAN 61 Planning and Sustainable Urban Drainage Systems (2001);
- Draft Planning Guidance: Biodiversity (2023);
- Flood Risk: Planning Advice (2015);
- PAN 75 Planning for Transport (2005);
- PAN 79 Water and Drainage (2006);
- PAN 3/2010 Community Engagement (2010);
- PAN 1/2011 Planning and Noise (2011);
- PAN 2/2011 Planning and Archaeology (2011);
- PAN 1/2013 Environmental Impact Assessment (2013); and
- Large Photovoltaic Arrays: Planning Advice.

## 5.7 Summary

5.7.1.1 This Chapter outlines the relevant climate change and planning policy and legislation that are relevant to the Proposed Development.

- 5.7.1.2 A detailed assessment of the Proposed Development against the policy context is included within the Planning Statement. The Planning Statement is separate from the EIAR and accompanies the S36 application.