

## 4 PLANNING POLICY

### INTRODUCTION

- 4.1 This Chapter describes the national and local planning policy framework for the proposed Spittal Hill Wind Farm, describing the policies of relevance to the determination of the application.
- 4.2 The purpose of this Chapter is to outline the policy context of the proposed development, and to provide some background to the consideration of potential environmental effects and other implications of the project set out in Chapters 5-14.

### CONSULTATION

- 4.3 Pre-application discussions have been held with a planning representative of The Highland Council during which planning policy and guidance of particular relevance to the proposal was discussed. The Highland Council scoping response recommended that the Environmental Statement reference the Development Plan and highlighted a number of organisations that should be consulted for comments.
- 4.4 The scoping response from SNH clarified how the proposal should be considered for assessment at different stages of the planning process and how applications should be portrayed for landscape and visual analysis.

### DEVELOPMENT PLAN FRAMEWORK

- 4.5 The site is located within The Highland Council administrative area. The Development Plan for the area in which the site is located comprises two documents. Firstly, strategic guidance is outlined in The Highland Council Structure Plan (approved by the Scottish Ministers on 23 March 2001) and, secondly, local guidance is provided within the Caithness Local Plan (adopted by The Highland Council on 12 September 2002).
- 4.6 The Highland Structure Plan (hereafter referred to as “the Structure Plan”) aims to create a shared vision of how people in the Highlands can work together to develop a prosperous future, strong communities and a healthy environment. The Structure Plan identifies 15 sustainable objectives that include maximising ‘the optimal use of renewable and non-renewable resources’ and ‘the efficiency of energy use’.
- 4.7 The Caithness Local Plan (hereafter referred to as “the Local Plan”) aims to co-ordinate the detailed development and use of land in the region for approximately 5 years. An important purpose of the Local Plan is to take forward the Structure Plan Strategy and translate its policies into more detailed land allocations.
- 4.8 There are currently no emerging Development Plan documents.
- 4.9 Section 25 of the Town and Country Planning (Scotland) Act 1997 states that in making any determination under the planning acts regard is to be had to the Development Plan, the determination shall therefore be made in accordance with the Structure Plan and the Local Plan unless material considerations indicate otherwise
- 4.10 Section 57 of the Town and Country Planning (Scotland) Act 1997 states that on granting a consent under Section 36 or 37 of the Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Secretary of State (now the Scottish Ministers) may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to any conditions.
- 4.11 This chapter will outline the relevant provisions of the Development Plan and identify relevant national planning policies that are material considerations to the proposal.

## DEVELOPMENT PLAN POLICIES

### Renewable Energy and Sustainable Development

- 4.12 The Structure Plan aims to achieve sustainable development founded on three interdependent principles:
- Supporting the viability of communities;
  - Developing a prosperous and vibrant local economy; and
  - Safeguarding and enhancing the natural and built environment.
- 4.13 In addition the Highland Renewable Energy Strategy and Planning Guidelines were adopted in May 2006. These are considered separately in Section 4.71-4.77.
- 4.14 Within the Structure Plan the Highland Council has developed “General Strategic Policies” from the sustainable objectives and the strategic themes. These cover a wide range of issues relating to sustainable development and are essential to the implementation of the Development Plan’s strategic themes. Although proposed development is assessed against all of the strategic policies, the following strategic policies are considered most relevant to wind farm development in promoting wise resource use and environmental, social and economic benefits:
- 4.15 **Policy G1** states that the Council shall support developments that have regard to the Structure Plan’s sustainable objectives, which promote and enhance the social, economic and environmental wellbeing of the people of Highland.
- 4.16 **Policy G2** provides detailed criteria for the assessment of development proposals. If the proposal is judged to be ‘significantly detrimental’ in terms of the criteria it will not accord with the Structure Plan. The policy lists thirteen principles that the development must comply with:

*“Proposed developments will be assessed on the extent to which they:*

- *are compatible with service provision (water and sewerage, drainage, roads, schools, electricity);*
- *are accessible by public transport, cycling and walking as well as car;*
- *maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy;*
- *are affected by significant risk from natural hazards, including flooding, coastal erosion, land instability and radon gas, unless adequate protective measures are incorporated, or the development is of a temporary nature;*
- *are affected by safeguard zones where there is a significant risk of disturbance and hazard from industrial installations, including noise, dust, smells, electro-magnetism, radioactivity and subsidence;*
- *make use of brownfield sites, existing buildings and recycled materials;*
- *impact on individual and community residential amenity; impact on non-renewable resources such as mineral deposits of potential commercial value, prime quality or locally important agricultural land, or approved routes for road and rail links;*
- *impact on the following resources, including pollution and discharges, particularly within designated areas:*

<i>habitats</i>	<i>freshwater systems</i>
<i>species</i>	<i>marine systems</i>
<i>landscape</i>	<i>cultural heritage</i>
<i>scenery</i>	<i>air quality;</i>

- *demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;*

- promote varied, lively and well-used environments which will enhance community safety and security and reduce any fear of crime;
- accommodate the needs of all sectors of the community, including people with disabilities or other special needs and disadvantaged groups; and
- contribute to the economic and social development of the community.

*Developments which are judged to be significantly detrimental in terms of the above criteria shall not accord with the Structure Plan.”*

4.17 Also of note is Structure Plan **Policy G3**, which confirms that where there are likely to be significant impacts by virtue of nature, size or location, the Council will require the preparation by developers of appropriate impact assessments. The policy goes on to confirm that:

*“Developments that will have significant adverse effects will only be approved if no reasonable alternatives exist, if there is demonstrable over-riding strategic benefit or if satisfactory overall mitigating measures are incorporated.”*

4.18 The Structure Plan has a number of policies on renewable energy. **Policy E1**, Distributed Renewable Energy Developments, states that:

*“The Council supports the utilisation of the region’s distributed renewable energy resource, including hydro, wind, wave and tidal stream power. Proposals will be assessed against the provisions of the General Strategic Policies.*

*Approvals for renewable energy developments will normally be for a temporary period only (tied to the lifetime of the project) with the provision where appropriate for the removal and reinstatement of affected areas. Earlier action for removal and reinstatement will be required in the event of premature permanent cessation of energy production.”*

4.19 The Structure Plan contains two policies on wind energy. **Policy E3** relates to the safeguarding of existing wind farms. The key policy however is **Policy E2**, Wind Energy Developments, which states that:

*“Wind energy proposals will be supported provided the impacts are not shown to be significantly detrimental. In addition to the General Strategic Policies, wind energy proposals will be assessed in respect of the following:*

- visual impact;
- noise;
- electro-magnetic interference;
- roads, bridges and traffic;
- aircraft flight paths/MOD operations; and
- cumulative effects.”

4.20 The supporting text to **Policy E2** states that other Structure Plan policies in respect of the natural and cultural heritage (particularly the General Strategic Policies) will apply to wind energy, as well as being considered in terms of impact upon residential amenity (e.g. noise, visual appearance, TV reception and shadow flicker).

4.21 The Local Plan does not contain a policy on renewable energy however it is discussed at paragraph 1.34 of the Written Statement, where it advises that:

*“Potential sites for wind energy need in Caithness need to be assessed in relation to the criteria outlined in the Approved Structure Plan.”*

4.22 Under the title of ‘Sustainable Development’ the Local Plan states that:

*“Development must also be sustainable by:*

- Supporting the use of sustainable energy sources, including wind and hydro power.”

## Landscape

4.23 Landscape and visual amenity matters are assessed within Chapter 5 of the Environmental Statement.

4.24 Structure Plan **Policy T6** relates to ‘Scenic views’;

*“The Council will protect important scenic views enjoyed from tourist routes and viewpoints, particularly those specifically identified in Local Plans. There will be a presumption against development in narrow areas of land between roads and railways and open water.”*

4.25 **Proposal L3** in the Structure Plan advises that Local Plans will identify Areas of Great Landscape Value (AGLVs) within their area, based on indications in the Structure Plan. Figure 1.2 of the Structure Plan highlights that there are no proposed AGLVs on the site.

4.26 The closest AGLVs are the Flow Country East, approximately 8km south of the nearest turbine and Dunnet Head, approximately 11km to the north.

4.27 Landscape character is the subject of Structure Plan **Policy L4**, which states that: -

*“The Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals, including offshore development.”*

4.28 The Local Plan sets a hierarchy of primary policies relating to development. The site is partly within a **Primary Policy PP2** area and a **Primary Policy PP3** area. In PP2 areas: -

*“The Council will favour development unless this would significantly affect important features.”*

4.29 In PP3 areas: -

*“The Council will presume against development particularly where there would be significant harm to heritage, amenity and public health.”*

4.30 There are no specific policies on landscape in the Local Plan, however under **Primary Policy PP3** it states that: -

*“The Council will seek to identify and safeguard scenic views from unsympathetic development. Views from public roads to open water are particularly important for amenity and tourism.”*

## Ecology

4.31 Ecological matters are assessed within Chapter 6. Ornithological matters are assessed separately at Chapter 7. No part of the site is designated at an international, national or local level for nature conservation interest, with the closest designated area being Caithness Lochs Special Protection Area, which is located 2km to the east of the site.

4.32 **Policy N1** of the Structure Plan relates to nature conservation, which advises that new development should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The policy provides advice according to a hierarchy of sites based on their international, national and local importance.

4.33 For sites and species of international importance: -

*“Developments which would have an adverse effect on the conservation interests for which a site has been designated will only be permitted where there is no alternative solution and there are imperative reasons of over-riding public interest...”*

4.34 For sites of national importance: -

*“Developments will only be permitted where the objectives of designation and the overall integrity of the area will not be compromised or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits of national importance.”*

4.35 For sites of local importance:

*“Developments will be assessed for their effects on the interests of sites of local conservation importance and will be resisted where these are judged to be unreasonably detrimental.”*

4.36 In respect of habitats and species, Structure Plan Policy N4 states:

*“...The Council will have regard to Local Biodiversity Action Plans, where available...”*

4.37 The Local Plan does not include any specific policies on ecological matters.

## Cultural Heritage

4.38 Cultural heritage matters are assessed in Chapter 9. In addition, the landscape impacts on sites within the Inventory of Historic Gardens and Designed Landscapes (in this case Melstter House (Island of Hoy, Orkney), Dunbeath Castle, Langwell Lodge and Castle of Mey) are assessed within Chapter 5 (The impact on listed buildings within this site is assessed in Chapter 9).

4.39 There are no Listed Buildings located within the proposed site. One Scheduled Ancient Monument is located within the proposed development area. As outlined in Chapter 9, there are several sites and buildings designated at various levels for their cultural heritage interest within and around the site. As such, a number of specific policies in the Development Plan have potential relevance to the proposal in relation to cultural heritage matters.

4.40 The Council will seek to conserve and promote all sites and areas that are identified as being high quality with regard to; nature conservation, landscape, archaeology and the built environment, through Structure Plan **Policy G6**.

4.41 Structure Plan **Policy BC1**, entitled preservation of archaeological sites, states that:

*“Archaeological sites affected by development proposals should be preserved, or, in exceptional circumstances where preservation is impossible, the sites will be recorded at developers’ expense to professional standards. Provision will be made in Local Plans for the appropriate protection, preservation and enhancement of archaeological sites.”*

4.42 **Proposal BC3** states that Local Plans will identify and zone areas of exceptional archaeological and historic interest and make appropriate provision for the protection and interpretation of features of interest.

4.43 Historic gardens and designed landscapes are the subject of Structure Plan **Policy BC4**, which states that such sites identified in the published inventory and any subsequent additions will be preserved. The policy also advises that Local Plans will contain policies for their protection.

4.44 Listed buildings and conservation areas are discussed within Structure Plan **Policy BC5** stating that the Council will seek to preserve such structures and designated areas.

4.45 The Local Plan includes supporting policies on listed buildings, conservation areas, historic gardens and designed landscapes, and archaeology. Of those of relevance to the proposal, **Supporting Policy SP19** states that:

*“Proposals affecting listed buildings and/or conservation areas will be considered in accordance with Historic Scotland’s “Memorandum of Guidance on Listed Buildings and Conservations Areas (1998).”*

4.46 With specific regard to conservation areas, Strategic Policy 24 states:

*“The Council will require applicants to provide sufficient information about the proposed development and its immediate setting, such as design, massing, siting and landscaping, to enable it properly and fully to assess the impact of the proposal on the character or appearance of the relevant part of the Conservation Area.”*

4.47 **Supporting Policy SP25**, Historic Gardens and Designed Landscapes, states that:

*“Proposals will be assessed for any adverse effect on the natural and historic integrity of the areas included in the Inventory Gardens and Designed Landscapes. Such proposals must be the subject of consultation with Historic Scotland and Scottish Natural Heritage.”*

4.48 Archaeology is discussed in detail within **Supporting Policy SP26**. This policy advises that where development would potentially affect a site of archaeological interest the developer should consult with the Council’s archaeology unit and Area Planning and Building Control Manager and that an assessment should be carried out. The policy also advises on actions that should be taken should development affect an archaeological site.

## Other Issues

4.49 A number of other development plan policies are of importance to the proposal. These policies can be summarised as follows:

- Structure Plan **Policy G4** states that the Council will seek to enter into agreements with developers to benefit the local community and contribute to the wellbeing of local communities for environmental and socio-economic purposes. Developers are actively exploring with the local community the most appropriate and effective form for the community involvement in the scheme. As a minimum this might be a specified amount of money per megawatt per annum paid into a locally controlled fund. Community benefit might involve turbine ownership if there is sufficient interest in the area
- Structure Plan **Policy G5** states that the Council shall support provisions for the protection, enhancement, understanding and enjoyment of the natural and cultural heritage with the sustainability and vitality of local communities.
- Structure Plan **Policy SR5** states that the Council will support the Government’s intention to introduce legislation for a right of responsible access to land for informal recreation.
- Structure Plan **Policy SR6** states that the Council has developed a common access strategy and action plan. This will work towards the implementation of the Strategy in developing an integrated system of paths and the maintenance and upgrading of existing paths.
- Structure Plan **Policy T1** states that tourist related developments will be assessed taking into account the strategic vision and objectives for tourism as detailed in the Highlands of Scotland Tourism Strategy.
- Structure Plan **Policy A1** states that it will not be permitted to develop on prime quality or locally important agricultural land except where the development is essential to the interests of the local community and no reasonable alternative location is available.
- **Policy A2** of the Structure Plan states that the Council will generally encourage proposals for the diversification of farm incomes through adding value to products and through non-farming enterprises.

- Structure Plan **Policy G7** states that the Council will adopt a partnership approach in developing and implementing community planning initiatives at both the strategic and local level.
- **Supporting Policy SP1** of the Local Plan relates to all development proposals and contains a number of criteria relating to design, amenity, access and landscaping.
- Structure Plan **Policy G8** relates to the precautionary principle. The policy states that where the potential impacts of a development are uncertain, but where there are scientific grounds for believing that severe damage could occur either to the environment or the wellbeing of communities, the Council will apply the precautionary principle.

## MATERIAL CONSIDERATIONS

### National Planning Policy and Advice

- 4.50 National planning policy is contained within the series of Scottish Planning Policies (SPPs) and National Planning Policy Guidelines (NPPGs – which are in the process of being replaced by SPPs), which provide statements of Scottish Executive policy on planning matters. The following documents have a degree of relevance to the proposal:
- SPP 1 The Planning System
  - NPPG 5 Archaeology
  - SPP 6 Renewable Energy
  - NPPG 14 Natural Heritage
  - NPPG 15 Rural Development
  - NPPG18 Planning and the Historic Environment
- 4.51 Planning Advice Notes (PANs) provide Scottish Executive advice on good practice and other relevant information with PAN 45 Renewable Energy Technologies, PAN 56 Planning and Noise, PAN 58 Environmental Impact Assessment and PAN 81 Community Engagement – Planning With People being of relevance to the proposal.
- 4.52 The pertinent guidance of the relevant SPP's, NPPGs and PANs will be outlined in the forthcoming assessment chapters. It should be noted that development plan policy is broadly reflective of the guidance contained within these documents. It is not therefore intended to discuss the content of the majority of these documents in this chapter.
- 4.53 SPP1 is of relevance to all development proposals, however its advice is general in nature and unlikely to prove a determining issue.
- 4.54 The key guidance for the proposal is contained within SPP 6 (published in March 2007). This sets out national planning policies that should be considered when preparing development plans and when determining planning applications for renewable energy developments.
- 4.55 The SPP confirms the Scottish Ministers' commitment to renewable energy:
- “The Scottish Ministers' commitment to increasing the amount of electricity generated from renewable energy sources is a vital part of the response to sustainable development and climate change imperatives. This commitment also recognises the ability of renewable energy to contribute to secure and diverse energy supplies and it's potential to support economic growth.”*
- 4.56 The tone of SPP 6 is positive in reiterating the Scottish Ministers commitment that Scotland should generate 6 GW in order to meet the target of 40% renewable energy by 2020. The purpose of the SPP is to help facilitate a successful achievement of this target of 6 GW, although this should not be seen as a cap, but as a minimum.
- 4.57 It also recognises the importance of the role wind power has to play, stating onshore wind power is likely to make the most substantial contribution towards meeting renewable targets in the medium term.
- 4.58 In order to achieve these targets, the SPP acknowledges the importance of up-to-date development plans in both facilitating development in acceptable locations and providing a clear policy framework against which proposals can be assessed. Where local authorities do not have an up-to-date development plan in place, then the policies set out in SPP 6 should be an important material consideration.
- 4.59 When considering applications, the SPP states the significance of any adverse impacts of a proposal should have regard to the projected benefits of the project in terms of its scale and its contribution to the renewable energy targets.
- 4.60 Paragraph 55 of the document goes on to state:
- “Where valid concerns have been raised as part of the planning process, the applicant will need to demonstrate how these can be overcome or how any detrimental environmental effects can be minimised, where appropriate advancing any material arguments which might outweigh objections to the proposed development”.*
- 4.61 Annex A of the SPP states local authorities, when preparing development plans should set out broad areas of search where proposals are likely to be supported, subject to addressing all material considerations. Paragraph 3 states:
- “Development plan policies should be based on the principle that wind farms should be accommodated where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily”.*
- 4.62 However, the SPP does emphasise that while some planning authorities have progressed work that identifies broad areas where development may be suitable, they should only be used as a steer for the developer and not used to rule out development elsewhere, especially if it can be accommodated in a manner that is consistent with the approach set out in the SPP.
- 4.63 The other main principles of the document are that there is a greater emphasis on engaging local communities, guiding development to appropriate locations and ensuring environmental, economic and social benefits are fully exploited.
- 4.64 Priority is also given to ensuring that Scotland can meet their national and international obligations in respect of natural heritage and the historic environment and minimising impacts on local receptors including communities, tourism, recreation and aviation.
- 4.65 With regard to Natural Heritage, the SPP is clear that Local Authorities may designate sites of local heritage value but these will not attract the same level of protection as nationally and internationally designated sites. It is advised that Planning Authorities should not impose additional zones for protection around areas designated for landscape value.
- 4.66 With regard to aviation and defence, the Scottish Executive will introduce formal procedures for consulting the MoD on wind farm applications including any subsequent variations. Constraints should only preclude development where the aviation and defence authorities indicate that problems are insurmountable.
- 4.67 PAN 45 supports the policies of SPP 6 by providing information and advice on the technologies for harnessing renewable energy for electricity generation. This PAN includes a substantial section on wind power, explaining the technology and the potential for environmental effects. Of particular note are the sections on 'Siting in the Landscape' and 'Visual Impact', which contain a number of statements that clarify the Scottish Ministers' policy.

4.68 Paragraph 71 states that: -

*“There are no landscapes into which a wind farm will not introduce a new and distinctive feature. Given the Scottish Ministers’ commitment to addressing the important issue of climate change and the contribution expected from renewable energy developments, particularly wind farms, it is important for society at large to accept them as a feature of many areas of Scotland for the foreseeable future.”*

4.69 Paragraph 78 states that: -

*“Turbines in wind farms are likely to be tall, frequently located in open land, and therefore likely to be highly visible...It will normally be unrealistic to seek to conceal them. Developers should seek to ensure that through good siting and design, landscape and visual impacts are limited and appropriate to the location.”*

4.70 PAN 81 (published March 2007) provides advice on how best to engage communities in the planning process and promote a more inclusive and participatory system, which should result in more widespread trust and confidence in the planning system.

*“...everyone interested in the future development of their neighbourhood, village, town or city should understand the importance of the planning process, how to get involved at the earliest opportunity and feel confident that engaging in the process has been meaningful.”*

### Highland Renewable Energy Strategy and Planning Guidelines

4.71 The current Scottish Executive targets for electricity generated in Scotland by renewable sources is 18% by 2010 with an aspiration to generate 40% by 2020 (the UK target is to produce 10% of electricity from renewables by 2010). These targets are supported by the Renewables Obligation (Scotland) that obliges all licensed electricity suppliers to obtain certificates sufficient to cover a specified proportion of the electricity supplied to their customers in Scotland.

4.72 The Highland Council approved the Highland Renewable Energy Strategy and Planning Guidelines (HRESPG) on 4<sup>th</sup> May 2006 as non-statutory supplementary planning guidance to the Structure Plan and Local Plans. The Strategy intends to set renewable energy targets for The Highland Council region and identify preferred zones for renewable energy developments.

4.73 The aim of the Highland Renewable Energy Strategy is to:

*“...harness both the energy and economic potential presented by renewable technologies in the Highland area to provide benefit for both the global environment and local communities. In doing so, the elements of the natural and landscape heritage that define the Highlands area for locals and visitors will be protected. However, it is recognised that change is an integral part of cultural heritage and that the Highland area needs new developments in order for communities and businesses to flourish. Renewable energy projects will, therefore, be developed in ways that protect the integrity of particularly valued sites, maximise local and regional benefits and minimise or avoid negative consequences.”*

4.74 The Draft Strategy proposes a geographical vision of renewable energy for 2010, which proposes onshore wind farm development within the Caithness area.

4.75 The HRESPG defines 4 scales of renewable energy development, minor, local, major and national, with the proposed Spittal Hill Wind Farm being classified as a major development of between 50 and 100 MW.

4.76 Policy E5 refers to preferred development areas for wind farm development:

*“Preferred development areas have been established for major and national scale onshore wind developments. There are 3 designated areas which contain optimal conditions in terms of planning constraints, energy production, technical feasibility and proximity to grid. The detailed suitability of all prospective sites still needs to be confirmed through the normal planning processes. There will, however, be a strong presumption in favour of*

*projects proposed for these designated areas, and developers will be encouraged to come forward with proposals there subject to appropriate community and environmental safeguards.”*

4.77 The Highland Renewable Energy Strategy and Planning Guidelines highlights preferred areas for development for both national scale (greater than 5MW) and local scale (less than 5MW) wind farms. The proposed wind farm site is located within an area designated as ‘presumption against development’ for national scale development in figure 6.2.4 of the Strategy, but less than 1km away from a ‘possible development area’. As per the Government Guidance set out in paragraph 4.62 above, this should not preclude proposals being approved outwith the preferred search areas. An assessment of the detailed suitability of the site, as called for in the Strategy and Planning Guidelines, demonstrates that it is a suitable site for this scale of development.

### CONCLUSIONS OF EIA AND APPLICATION OF PLANNING POLICY

4.78 Scottish Executive policy on renewable energy, including planning policy outlined in SPP 6, is strongly supportive of the principle of establishing renewable energy as a means of addressing the important issue of climate change. This is reflected in The Highland Council Structure Plan, which is strongly based on policies of sustainability, including the utilisation of resources to produce renewable energy.