**East Ayrshire Local Development Plan 2 Main Issues Report**

This document sets out Scottish Renewables’ response to the East Ayrshire Local Development Plan (LDP) 2 Main Issues Report (the MIR).

We would encourage the council to consider our comments alongside Scottish Renewables’ Position Statement on National Planning Framework 4 (NPF4)[[1]](#footnote-2), as well as our Supplementary Papers on Landscape Capacity v Sensitivity Studies[[2]](#footnote-3) and Spatial Planning[[3]](#footnote-4). These are relevant to the proposals in the MIR, specifically policies relating to renewables.

1. Issues 1 and 2 - ‘Vision and Aims’
   1. Scottish Renewables considers that the MIR does not fully reflect the Scottish Government’s ambitions with regards to tackling climate change and giving stronger support for the further development of large-scale renewable energy developments. There is a concern that the Proposed LDP will not set the necessary context or policy ambition required to address climate change over the lifetime of the Proposed LDP.
   2. Whilst the Proposed LDP refers to the Scottish Government’s declared ‘climate emergency’, this is an integral part of the wider planning system that should be better reflected in the Visions and Aims of the Proposed LDP.
   3. Paragraph 2.5 of the MIR states that delivery of the East Ayrshire Proposed LDP vision will be secured through several key aims. One of those aims is: ‘Encourage low carbon solutions and ensure there is a responsible and justified approach to renewable energy development’.
   4. It is not clear what is meant by the words ‘responsible and justified’, which could suggest a restrictive approach will be taken by the Council in relation to supporting renewable energy development. It could be interpreted as meaning there is a requirement for justification of renewable energy development generally. Such a requirement would be at odds with international, UK and Scottish legislation and policy, which provides a very clear justification for renewable energy development.
   5. Scottish Renewables suggests that this aim is reworded to state that the Proposed LDP aims to ‘encourage low carbon solutions and renewable energy development’.
   6. Paragraph 9.39 of the MIR states that ‘The next LDP will therefore need to take into account the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the proposed amendments. The LDP will need to make provision at a local level for setting targets for the reduction of greenhouse gases emissions and to make provision about advice, plans and reports in relation to those targets’.
   7. Scottish Renewables generally supports this proposal and welcomes the opportunity to engage with the Council to help it reduce greenhouse gas emissions. This ambition is one that is relevant across all development proposals, and the Council may wish to consider including reference to it in the Visions and Aims (or equivalent) section of its Proposed Plan. Given the scale of the Climate Emergency, it is imperative that targets are not viewed as caps and any caps are set at an ambitious level.
2. Issue 3 - ‘Ayrshire Growth Deal (AGD)’
   1. The MIR states that the Proposed LDP ‘can help ensure that the full potential of the Growth Deal is maximised.’ The MIR proposes to do so by safeguarding AGD sites and identifying sites within the area of the AGD projects to ‘further support the long-term growth of East Ayrshire’.
   2. Scottish Renewables suggests that the Proposed LDP should also expressly recognise the contribution which renewable energy projects, including onshore wind, can make towards maximising the potential of the Ayrshire Growth Deal, and support renewable energy development which will support AGD projects.
3. Section 9 - ‘Planning For Climate Change: Renewable Energy, Flooding, Minerals And Low Carbon Places’
   1. Scottish Renewables welcomes recognition in the MIR of the Scottish Government’s declaration of a ‘climate emergency’ and the net-zero target set by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. It should be noted that the 2019 Act amended the Climate Change (Scotland) Act 2009, and that the amended targets are set out in the 2009 Act.
   2. In December 2015 the Paris Agreement was concluded, which commits signatories, including the UK, to restrict the increase in the global average temperature to below 2C above pre-industrial levels, and to pursue efforts to limit increases to 1.5C, as well as aspiring to achieve net-zero GHG emissions by 2050. The Scottish Government also adopted their Onshore Wind Policy Statement in 2017, which states: ‘Achieving appropriate environmental protection means that the relevant planning and consenting processes must remain aligned with the policy context and desired outcomes.’
   3. Section 3ZA (1) of the Planning (Scotland) Act 2019 (the ‘2019 Act’) is also of relevance to the Proposed LDP. This states that ‘The purpose of planning is to manage the development and use of land in the long term public interest’. Section 3ZA (2) clarifies that ‘anything which contributes to sustainable development… is to be considered as being in the long term public interest’. In setting out changes to the content of the new NPF4, Section 2(4) of the 2019 Act identifies ‘outcomes’ for NPF4, one of which (e) is ‘meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009..’
   4. The Scottish Renewables NPF4 Supplementary Paper on Climate Change and Deployment Targets sets out the challenges facing Scotland in meeting our national targets for emission reduction and to achieve net zero by 2045.[[4]](#footnote-5)
   5. The Scottish Government’s Programme for Scotland 2019-2020 ‘Protecting Scotland’s Future’, which was published in September 2019, is of relevance to the Proposed LD, and reinforces the important role that the planning system has to play in delivering greenhouse gas targets. In the Ministerial Foreword, the First Minister references the climate emergency and notes that the Programme ‘raises our ambition in light of the emergency we face. We are leading the world in setting challenging targets, but we must also redouble our efforts to meet them’.
   6. Chapter 1 of the Programme ‘Ending Scotland’s Contribution to Climate Change’ notes that ‘adopting a net zero emissions target by 2045 underlines our ambition that Scotland will no longer contribute to global climate change’. The Scottish Government clearly sees the planning system as playing a crucial role in responding to the climate emergency and the Programme notes on page 38 that one of the major commitments in the response to the climate emergency will be the introduction of NPF4 which ‘will help to radically accelerate reduction of emissions’. The Programme notes that the climate emergency necessitates a debate on ‘more radical planning policy options’ and that planning ‘is a vital tool in leveraging the changes we need to make to achieve our goals’.
   7. It is clear therefore that at the heart of the changes to the Scottish planning system is a recognition of the vital role the planning system must play in tackling climate change and reducing greenhouse gases.
   8. Scottish Renewables and our members would like to see greater recognition given to these issues in the LDP. This view is supported by the very recent June 2020 Committee on Climate Change (CCC) Progress Report to Parliament, which notes that ‘delivering net zero emissions by 2050 in the UK will require a strong policy framework at all levels of government’. It continues and notes that ‘‘the UK cannot achieve net zero in 2050 without strong policy from its devolved partners across key areas including planning, agriculture, land use, housing regulations and local government’.
4. Issue 24: ‘Low Carbon Places’
   1. Issue 24 relates to the National Energy Research Demonstrator (NERD) project, which is one of the AGD projects located within East Ayrshire. The MIR notes that the NERD project will:

‘act as a catalyst to focus on the infrastructure required to allow communities to be energy self-sufficient and enable the construction of better and low carbon buildings. It will drive the development of more low carbon transport infrastructure and will result in lasting change across East Ayrshire.’

* 1. Scottish Renewables welcomes the statement that the Proposed LDP must embrace the NERD project and ‘help ensure that development… plays its part in reducing carbon emissions.’

1. Issue 25: ‘Renewable Energy’

**Council’s Preferred Approach**

* 1. Paragraphs 9.21 and 9.22 of the MIR states that the Council’s Preferred Option to provide for a ‘new spatial approach’ in the Proposed LDP which combines the constraints mapping approach set out in Scottish Planning Policy (‘SPP’) with a ‘landscape sensitivity mapping approach’.
  2. It is recognised at paragraph 9.24 that the Council’s new spatial approach is contrary to Scottish Planning Policy.
  3. We would argue that it is inappropriate for the Council to try and advance a Policy position which, as the Council has to accept, places it in contravention of Government policy, in particular SPP paragraph 163, which states, in relation to onshore wind:

‘The approach to spatial framework preparation set out in the SPP should be followed in order to deliver consistency nationally and additional constraints should not be applied at this stage. The spatial framework is complemented by a more detailed and exacting development management process where the merits of an individual proposal will be carefully considered against the full range of environmental, community, and cumulative impacts.’

* 1. The Council states that, as SPP is under review, it is considered reasonable to invite views on alternative approaches. However, the Proposed LDP must be prepared in accordance with the national planning policy in place at the time. The Council cannot pre-judge what any replacement guidance may look like.
  2. The MIR states that the Council will use consultation responses to inform its own views when engaging with Scottish Government on NPF4. Whilst views expressed in one consultation process may be relevant to another, different, consultation, this is not the purpose of the MIR.
  3. The draft NPF4 and updated SPP are to be published in September 2021 and adopted 12 months later. The Proposed Plan is due to be published around the same time (Q4 2021) but not adopted until well after NPF4 and the updated SPP.
  4. As above, we would encourage East Ayrshire Council to consider our comments on its MIR alongside our Position Statement and Supplementary Papers to Scottish Government on NPF4. These are incorporated into this representation on the MIR, responding to the Council’s intention that MIR responses will inform its own submissions on NPF4.
  5. Ultimately, however, we do not feel it is appropriate for the Council to promote a policy which is directly contrary to existing national policy.
  6. In relation to Issue 25, we would encourage the council to consider the comments set out in Scottish Renewable’s Supplementary Papers on Landscape Capacity v Sensitivity Studies, and Spatial Planning. The former sets out Scottish Renewables concerns and recommendations in relation to landscape capacity and landscape sensitivity studies. In particular, it states that the brief for those carrying out landscape sensitivity studies ‘should require a positive approach which recognises the need case for renewables, and which therefore does not seek to respond to a perceived need to constrain further development.’
  7. Our Spatial Planning Supplementary Paper states:

‘Scottish Renewables proposes that NPF4 should continue to allow developers to ensure that the most efficient and suitable sites are chosen for repowering and new onshore wind development through well-established criteria. Experience in Scotland and elsewhere in the UK has proven that the existing SPP framework will be much more successful than a spatial planning approach in meeting Scotland’s climate change commitments and net-zero targets.’

* 1. Although the MIR refers to ‘sensitivity’ as opposed to ‘capacity’, the Council’s preferred approach of not supporting any proposals in ‘high sensitivity’ landscapes (unless significant benefits or mitigation outweigh the impact) effectively pre-judges any site-specific assessment. High-level landscape sensitivity studies are not a substitute for detailed and site-specific landscape and visual impact assessments.
  2. The Preferred Option of not supporting development within ‘high sensitivity’ landscapes is contrary to the well-established policy of support for onshore wind development set out in section 3 above.
  3. This issue was recently considered in some detail in the Examination of the Moray replacement LDP (DPEA reference LDP-300-2). In that case, the Reporter found that Council’s proposals for map based spatial policy to be contrary to SPP. The Reporter also concluded (and Moray Council agreed) that landscape capacity studies could not be used as a substitute for individual site-specific assessments. The Reporter modified the draft Policy to make clear the landscape capacity study did not have enhanced status.
  4. Annexed to this submission is a draft policy (DP8) based on the Reporter’s modified policy for Moray Council[[5]](#footnote-6). This policy is one that has been through the LDP Examination process and subject to consideration by Scottish Ministers. The Council can have a high degree of confidence a policy in these terms would be considered acceptable at Examination and by Scottish Ministers. Scottish Renewables would be supportive of a policy in these terms.
  5. Paragraph 9.23 of the MIR states that applications for repowering ‘will be assessed in the same way as new proposals’.
  6. Scottish Renewables would argue that is not for the development plan to set out the approach to be taken to the assessment of planning applications. That is a matter of law, set out in section 25 of the Town and Country Planning (Scotland) Act 1997. It is neither necessary nor appropriate to try and prescribe in an LDP how applications should be assessed. We would suggest that paragraph 9.23 is deleted if the Preferred Option is taken forward.
  7. SPP paragraph 174 states:

‘Proposals to repower existing wind farms which are already in suitable sites where environmental and other impacts have been shown to be capable of mitigation can help to maintain or enhance installed capacity, underpinning renewable energy generation targets. The current use of the site as a wind farm will be a material consideration in any such proposals.’

* 1. If paragraph 9.23 is to be retained, the fact the relevant site is already used for onshore wind is a material consideration which requires to be expressly recognised.
  2. Paragraph 9.24 states that ‘landscape impact is a key consideration. Landscape must therefore be considered, spatially, in the development plan if wind energy development is to be plan-led.’
  3. Scottish Renewables recognises that landscape is considered a ‘material consideration’ but would argue that it is only one of many material considerations, and the weight to be given to any individual consideration is a matter of planning judgement, to be determined on a case-by-case basis.
  4. The Council’s preferred option elevates landscapes concerns above all other material considerations, with no basis to do so. Any planning authority-wide landscape sensitivity study will be at a high-level and is no substitute for a detailed and site-specific landscape and visual impact assessment carried out as part of the environmental impact assessment process. This ‘spatial’ approach, which further refines suitable areas beyond the SPP approach, is in conflict with national policy (ie. SPP paragraph 163).
  5. The CCC estimates that delivering net zero will require a fourfold increase in renewable energy deployment. In this context, there needs to be a recognition that ‘business as usual’ is not enough - accelerated action and rapid progress is required. A renewed, positive planning approach which does not unnecessarily constrain opportunities is crucial – the Council’s Preferred Option is not positive and is in direct conflict with decarbonisation targets.
  6. Scottish Renewables therefore does not support the Council’s Preferred Option.

**Alternative Approach 1**

* 1. Scottish Renewables supports ‘Alternative Option 1’, which would maintain the spatial framework approach, following the SPP methodology, set out in the current LDP. We consider that this is the correct approach and, subject to appropriate wording, will ensure that the Proposed LDP will be accordance with UK and Scottish Government legislation and policy, including SPP.

**Alternative Approach 2**

* 1. Scottish Renewables would not support ‘Alternative Option 2’, which would not permit any new large-scale wind energy development in East Ayrshire. It would be wholly inappropriate for the Council to seek to impose a ban on one form of development. This would place the Council in direct conflict with UK and Scottish Government legislation and policy. As such, it is unlikely such a policy could be lawfully introduced.

1. Issue 26: Renewable Energy – Heat
   1. Scottish Renewables is supportive of the Council’s Preferred Option in principle. However, it should be noted that decarbonisation of heat (and transport) will mainly be achieved through electrification of heating systems. As set out in the CCC report, a significant increase in renewable electricity will therefore be required to facilitate the decarbonisation of heat (and transport).
   2. The Council’s Preferred Option for Issue 25: Renewable Energy - Wind will potentially have a negative impact on its ability to deliver Issue 26: Renewable Energy – Heat.
2. Issue 28: Minerals
   1. It should be made clear that any elements of the Minerals Plan carried forward into the Proposed LDP are not applicable to the consideration of renewable energy proposals (principally onshore wind farms and associated borrow pits).
   2. Scottish Renewables suggests that new minerals policy in the Proposed LDP2 should be supportive of borrow pits required for wind farm construction (subject to environmental impact assessment).

1. <https://www.scottishrenewables.com/publications/560-sr-position-statement-on-npf4> [↑](#footnote-ref-2)
2. <https://www.scottishrenewables.com/publications/621-sr-npf4-supplementary-position-statement-lcs-v-lss> [↑](#footnote-ref-3)
3. <https://www.scottishrenewables.com/publications/622-sr-npf4-supplementary-position-statement-spatial-planning-for-onshore-wind> [↑](#footnote-ref-4)
4. https://www.scottishrenewables.com/publications/623-sr-npf4-supplementary-position-statement-cc-and-deployment-targets [↑](#footnote-ref-5)
5. <http://www.moray.gov.uk/downloads/file117316.pdf> [↑](#footnote-ref-6)