

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, as well as our Supplementary Papers on Landscape Capacity v Sensitivity Studies² and Spatial Planning³. These are relevant to the proposals in the MIR, specifically policies relating to renewables.

1 Issues 1 and 2 - 'Vision and Aims'

- 1.1 Scottish Renewables considers that the MIR does not reflect the Scottish Government's ambitions with regard to tackling climate change and giving stronger support for the further development of large-scale renewable energy developments. We are concerned 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.
- 1.2 Whilst the Proposed LDP refers to the Scottish Government's declared 'climate emergency', the need for consequent and urgent action should be an integral part of the wider planning system that should be better reflected in the Visions and Aims of the Proposed LDP. We agree with East Ayrshire Council's own response to the NPF 4 call for ideas, which states: "*The need to reduce carbon emissions needs to be at the heart of planning policy and planning decision making*".
- 1.3 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'.
- 1.4 It is not clear what is meant by the words 'responsible and justified', which 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.
- 1.5 Scottish Renewables suggests that this aim is reworded to state that the Proposed LDP aims to 'Encourage low carbon solutions and renewable energy development'.
- 1.6 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

¹ <https://www.scottishrenewables.com/publications/560-sr-position-statement-on-npf4>

² <https://www.scottishrenewables.com/publications/621-sr-npf4-supplementary-position-statement-lcs-v-iss>

³ <https://www.scottishrenewables.com/publications/622-sr-npf4-supplementary-position-statement-spatial-planning-for-onshore-wind>

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’.

Scottish Renewables supports this proposal and welcomes the opportunity to engage with the Council to help it reduce greenhouse gas emissions. This ambition 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 and urgency of the Climate Emergency, it is imperative that targets are not viewed as caps and any targets are set at an ambitious level. If targets are used, there should also be provision for regular (annual) monitoring of delivery against targets. This will help ensure these policies are helping to deliver the identified need for additional renewable energy generation capacity (see para 5.22 below).

2 Issue 3 - ‘Ayrshire Growth Deal (AGD)’

- 2.1 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’.
- 2.2 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’

- 3.1 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 the amended targets are set out in the 2009 Act.
- 3.2 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.’
- 3.3 Section 3ZA (1) of the Planning (Scotland) Act 2019 (the ‘2019 Act’) is in force and 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.’

- 3.4 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
- 3.5 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 LDP, 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'.
- 3.6 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'.
- 3.7 It is clear therefore that at the heart of the recent 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.
- 3.8 Scottish Renewables and our members would like to see greater recognition and prominence 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'

- 4.1 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.'
- 4.2 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.'

⁴ <https://www.scottishrenewables.com/publications/623-sr-npf4-supplementary-position-statement-cc-and-deployment-targets>

5 Issue 25: ‘Renewable Energy’

Council’s Preferred Approach

- 5.1 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 combines the constraints mapping approach set out in Scottish Planning Policy (‘SPP’) with a ‘landscape sensitivity mapping approach’.
- 5.2 It is recognised at paragraph 9.24 that the Council’s new spatial approach is contrary to Scottish Planning Policy.
- 5.3 It is wholly inappropriate – particularly in a climate emergency - 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.’

- 5.4 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.
- 5.5 The MIR states that the Council will use consultation responses to inform its own views when engaging with Scottish Government on NPF4.. We would encourage East Ayrshire Council to consider our comments on its MIR alongside our Position Statement and Supplementary Papers to the Scottish Government on NPF4. These are incorporated into this representation on the MIR.
- 5.6 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. In the mean time it is not appropriate for the Council to promote a policy which is directly contrary to existing national policy.
- 5.7 In relation to Issue 25, we would encourage the council to consider the comments set out in Scottish Renewables’ 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.’
- 5.8 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.’

- 5.9 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.
- 5.10 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.
- 5.11 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.
- 5.12 Annexed to this submission is a draft policy (DP9) based on the Reporter's modified policy for Moray Council⁵. This policy is one that has been through the LDP Examination process and subject to consideration by Scottish Ministers. The modified policy was adopted by Moray Council as part of their Local Development Plan 2020 on 27 July 2020. East Ayrshire 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.
- 5.13 Paragraph 9.23 of the MIR states that applications for repowering 'will be assessed in the same way as new proposals'.
- 5.14 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.
- 5.15 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.'
- 5.16 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.
- 5.17 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.'
- 5.18 Scottish Renewables recognises that landscape is a relevant consideration but it is only one of many 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.
- 5.19 The Council's preferred option elevates landscape concerns above all other material considerations, with no basis to do so, and again in contravention of existing policy in SPP which does not afford any elevated status to landscape issues. Any planning authority-wide landscape sensitivity study will be

⁵ <http://www.moray.gov.uk/downloads/file117316.pdf>

strategic and 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).

- 5.20 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 are 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.
- 5.21 Scottish Renewables therefore does not support the Council's Preferred Option.

Alternative Approach 1

- 5.22 Scottish Renewables supports 'Alternative Option 1', which would maintain the spatial framework approach, following the SPP methodology, set out in the current LDP. This is the correct approach and, subject to appropriate wording, will ensure that the Proposed LDP will be in accordance with UK and Scottish Government climate change legislation and policy, including SPP.

Alternative Approach 2

- 5.23 Scottish Renewables strongly rejects '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 climate change legislation and policy. As such, it is unlikely such a policy could be lawfully introduced.

6 Issue 26: Renewable Energy – Heat

- 6.1 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).
- 6.2 The Council's Preferred Option for Issue 25: Renewable Energy - Wind would have a negative impact on its ability to deliver Issue 26: Renewable Energy – Heat.

7 Issue 28: Minerals

- 7.1 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).
- 7.2 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).

ANNEX 1: MORAY LOCAL DEVELOPMENT PLAN – POLICY DP9 RENEWABLE ENERGY

The below is a draft policy based on the Reporter's modified policy for Moray Council. This policy is one that has been through the LDP Examination process and subject to consideration by Scottish Ministers. The modified policy was adopted by Moray Council as part of their Local Development Plan 2020 on 27 July 2020. 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.

Renewable Energy

a) All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) they are compliant with policies to safeguard and enhance the built and natural environment;
- ii) they do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) they avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts
 - Noise impacts
 - Air quality impacts
 - Electromagnetic disturbance
 - Impact on water environment
 - Impact on carbon rich soils and peat land hydrology
 - Impact on woodland and forestry interests
 - Traffic impact - mitigation during both construction and operation
 - Ecological impact
 - Impact on tourism and recreational interests.

In addition to the above criteria, detailed assessment of impact will include consideration of the extent to which the proposal contributes to renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment.

b) Onshore Wind Turbines

In addition to the assessment of the impacts outlined in part a) above, the following considerations will apply:

i) The Spatial Framework

Areas of Significant Protection (Group 2): where the Council will apply significant protection and proposals may be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential (Group 3): where proposals are likely to be acceptable subject to Detailed Consideration.

[NOTE: These are the areas as identified on Map 12 of the existing LDP]

ii) Detailed Consideration

The proposal will be determined through site specific consideration of the following on which further guidance will be set out in supplementary guidance and as informed by the landscape capacity study:

Landscape and Visual Impact

- the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.
- the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

Cumulative Impact

- unacceptable significant adverse impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on Local Communities

- the proposal addresses unacceptable significant adverse impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- the proposal addresses unacceptable significant adverse impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- the proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests - core paths, visitor centres, tourist trails and key scenic routes.
- the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

iii) Extensions and Repowering of Existing Wind Farms

The proposal will be determined through assessment of the details of the proposal against Part a) and Parts b) (i) and (ii) above. Detailed assessment of impact will include consideration of the extent to which:

- the proposal, for extensions, impacts on the existing wind farm(s) setting and the ability to sit in the landscape on its own should the existing wind farm be decommissioned before the extension.
- the proposal, for repowering, makes use of existing infrastructure and resources, where possible, and limits the need for additional footprint.