

# 4 Planning and Legislative Context

## 4.1 Introduction

This Chapter sets out the legislative planning and policy context to the application. This Chapter does not assess the accordance of the Development against planning policy, a separate Planning Statement has been prepared to support the application and should be referred to for a detailed planning policy appraisal.

## 4.2 Statement of Authority

This section has been prepared by Jennings O'Donovan & Partners Ltd. (JOD).

## 4.3 Strategic Infrastructure Development (SID)

An Bord Pleanála, by way of Decision reference ABP-304023-19, has determined that the Development constitutes strategic infrastructure development as defined by section 2(1) of the Planning and Development Act 2000, as amended by section 6 of the Planning and Development (Strategic Infrastructure)act 2006, and that a planning application should be made directly to the Board. The planning application for the Development is therefore being made to An Bord Pleanála under Section 37E of the Planning and Development Act 2000, as amended.

**Table 4.1: Irish Planning Legislation and Policy Context**

| Legislation / Policy  | Context  |
|---|--|
| <b>Planning and Development Act 2000 (as amended)</b>         | The Planning and Development Act 2000 (as amended) sets out the planning framework. It consolidates all previous planning acts and is the basis for the Irish planning code, setting out the detail of regional planning guidelines, development plans and local area plans as well as the basic framework of the development management and consent system. The statutory basis for the carrying out of Environmental Impact Assessment (EIA).  |
| <b>Planning and Development Regulations 2001 (as amended)</b> | The Planning and Development Regulations 2001 (as amended) implement the Planning and Development Act 2000 by prescribing the details of the planning code.  |
| <b>Strategic Infrastructure Development Act 2006</b>          | The Planning and Development (Strategic Infrastructure) Act, 2006 came into effect on 31 January 2007. It provided for the establishment of a Strategic Infrastructure Division in An Bord Pleanála and for the making of applications for permission/approval for specified private and public strategic infrastructure developments directly to the Board.   |
| <b>Habitats and Birds Directives</b>                          | The Habitats Directive 1992/43/EEC and the Birds Directive (revised) 2009/147/EC set out the requirements for the protection of habitats and species and in particular Bird species, of European and national importance.<br><br>For the purposes of planning, these Directives have been transposed into Irish legislation under the Planning and Development Act 2000, as amended, (in particular Part XAB, the Planning and Development Regulations 2001, as amended (in particular Part 20), and the EC (Birds and Natural Habitats) Regulations 2011. |
| <b>Wildlife Act 1976, as amended</b>                          | The requirements for the designation and protection of habitats and species in a natural heritage area (NHA) are set out in the Wildlife Act 1976, as amended.   |
| <b>Climate Action and Low Carbon Development Act 2015</b>     | The Act provides for the establishment of a national framework with the aim of achieving a low-carbon, climate-resilient, and environmentally sustainable economy by 2050 (referred to in the Act as the "national transition objective"). The Act was commenced in the days before the historic COP21 agreement in Paris where consensus was reached by 200 countries on the need to reduce greenhouse gas emissions.   |

| Legislation / Policy  | Context   |
|---|---|
| <b>Policies</b>   |   |
| <b>Climate Action Plan 2019</b>   | The objective of the Plan is to enable Ireland to meet its EU targets to reduce its carbon emissions by 30 per cent between 2021 and 2030 and lay the foundations for achieving net zero carbon emissions by 2050.  |
| <b>National Mitigation Plan 2017</b>  | The first National Mitigation Plan is a whole-of-Government Plan, reflecting in particular the central roles of the key Ministers responsible for the sectors covered by the Plan – Electricity Generation, the Built Environment, Transport and Agriculture, as well as drawing on the perspectives and responsibilities of a range of other Government Departments.   |
| <b>The National Planning Framework 2018-2027</b>                                    | The National Planning Framework (NPF) (which is given statutory recognition in the Planning and Development (Amendment) Act 2018) is intended to guide development and investment through a shared set of national objectives and principles. It is then left to the three regional planning bodies and the 31 city and county councils to take a lead in refining these into more detailed plans.  |
| <b>The National Development Plan 2018-2027</b>                                      | The National Development Plan (NDP) sets out the investment priorities that will underpin the implementation of the National Planning Framework, through a total investment of approximately €116 billion. This represents a very substantial commitment of resources and is expected to move Ireland close to the top of the international league table for per capita public investment.  |
| <b>Regional Planning</b>  | The Local Government Reform Act 2014 provided for three new regional assemblies: the Northern and Western, Eastern and Midland and Southern Regions. Members of the Regional Assemblies consist of the local authorities within that region.  |
| <b>The Donegal County Development Plan 2018-2024</b>                                | The Development Plan is the statutory land use plan which sets out a strategy for the proper planning and sustainable development for the area. Each council is obliged to include within the Development Plan a Wind Energy Strategy. While Donegal Co Council adopted a Wind Energy Strategy, parts of this were revoked following legal action, and have yet to be replaced.   |
| <b>The Wind Energy Development Guidelines 2006</b>                                  | The Wind Energy Development Guidelines 2006 offer advice to planning authorities on planning for wind energy through the development plan process and in determining applications for planning permission. These are statutory (s.28) guidelines to which the planning authority is required to have regard, until such time as the guidelines are revoked and/or replaced.   |
| <b>Circular PL5/2017 Wind Energy Development Guidelines 2006 – Update on Review</b> | <p>The Interim Guidelines do not replace or amend the existing Wind Energy Development Guidelines 2006, but it is intended that the administrative provisions contained therein will be incorporated into the revisions to the 2006 Guidelines when finalised.</p> <p>The key aspects for the new wind energy guidelines include the following:</p> <ul style="list-style-type: none"> <li>• a visual amenity setback of 4 times the turbine height between a wind turbine and the nearest residential property, subject to a mandatory minimum distance of 500 metres</li> <li>• the elimination of shadow flicker</li> <li>• the application of a more stringent noise limit, consistent with World Health Organisation standards</li> <li>• the introduction of new obligations in relation to community engagement with local communities along with the provision of community benefit measures</li> </ul> |
| <b>The National Landscape Strategy for Ireland 2015-2025</b>                        | Ireland signed and ratified the Council of Europe's European Landscape Convention (ELC) which came into effect on 1 March 2004. The Convention has been ratified by thirty-eight countries. It obliges Ireland to implement policy changes and objectives concerning the management, protection and planning of the landscape. The National Landscape Strategy will be used to ensure   |

| Legislation / Policy | Context   |
|----------------------|---|
|                      | compliance with the ELC and to establish principles for protecting and enhancing it while positively managing its change. It is a high-level policy framework to achieve balance between the protection, management and planning of the landscape by way of supporting actions. |

#### 4.4 International Policy

This section of the EIAR highlights the international perspectives with regards to climate change and wind energy. Ireland is party to both the United Nations Framework Convention on Climate Change and the Kyoto Protocol, which together provide an international legal framework for addressing climate change.

##### 4.4.1 The United Nations Framework Convention on Climate Change

The United Nations Framework Convention on Climate Change (UNFCCC) was set up in 1992 and sets an overall framework for intergovernmental efforts to tackle the challenge posed by climate change. The UNFCCC recognises that the climate system is a shared resource whose stability can be affected by industrial and other emissions of carbon dioxide and other greenhouse gases.

##### The Paris Agreement (2016)

The Paris Agreement seeks to accelerate and intensify the actions and investment needed for a sustainable low carbon future. Its central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. The Agreement also aims to strengthen the ability of countries to deal with the impacts of climate change.

The Paris Agreement commits the EU as a whole to reduce greenhouse gas emissions by at least 40% by 2030, compared with 1990 levels.

##### 4.4.2 European Legislative and Policy Context

In 2011, the European Council reaffirmed the EU objective of reducing greenhouse gas emissions by 80-95% by 2050 compared to 1990.

The EU adopted the 2020 Climate and Energy Package by the European Council in December 2008. The objectives of the package included:

- Reduce GHG emissions by at least 20% compared to 1990 levels
- Reduce primary energy consumption by 20% compared with projected levels
- Achieve a 20% level of EU energy consumption from renewable sources

The Renewables Directive (EU Directive 2009/28/EC) introduced legally binding targets on Member States for the consumption of renewable energy (from electricity, heating and cooling, and transport) by 2020. This included the overall, legally binding target of 16% of Irish energy requirements from renewable sources by 2020.

The EU adopted the revised Clean Energy Package in May 2019, including the Renewable Energy Directive (recast) 2018/2001 (RED II) which sets a new binding EU-wide target for renewable energy of at least 32% by 2030, which provision for further increase from 2023. The RED II requires member states to adopt the necessary laws and procedures by June 2021 to comply with the requirements of the Directive, including facilitating the speedy permitting of repowering projects.

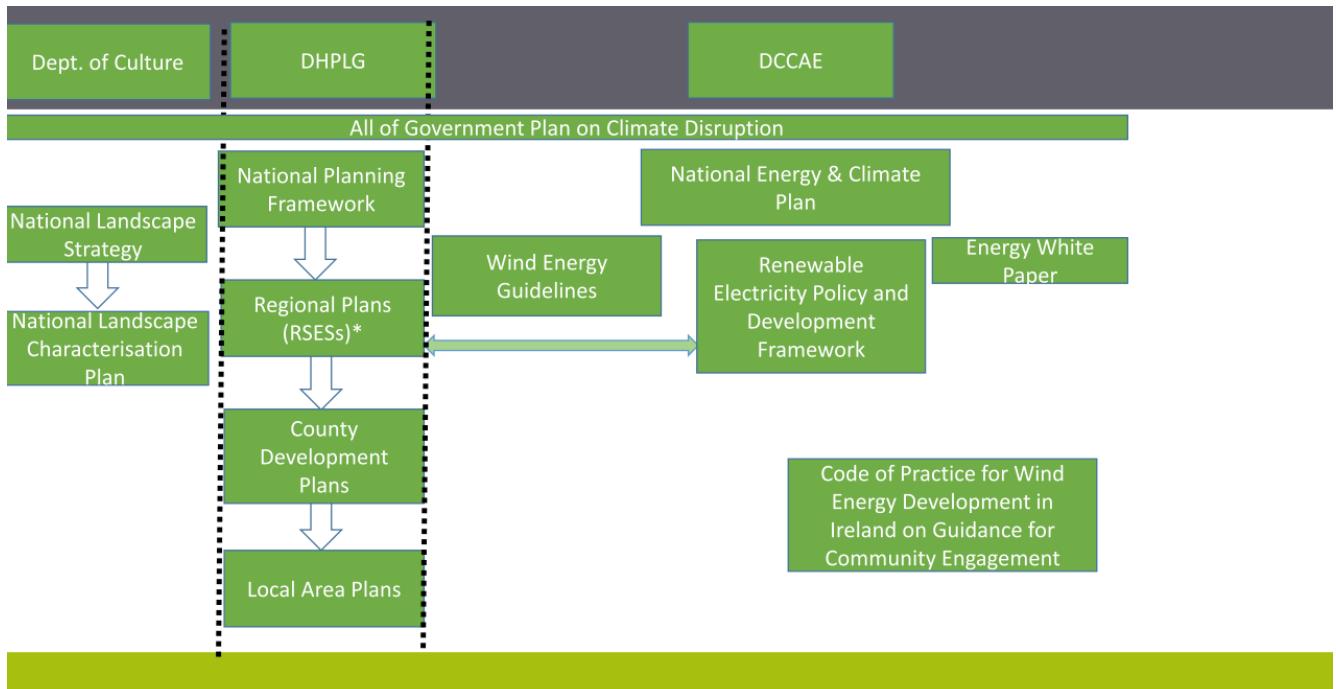
##### 4.4.2.1 European Objectives for 2050

By 2050, the EU aims to cut its emissions substantially by 80-95% compared to 1990 levels as part of the efforts required by developed countries as a group.

#### 4.5 National Policy

This sub-section contains information on national policy considered to be relevant to the Development and in particular how Ireland is responding to climate change. The 2014 National Policy Position on Climate Action and Low-Carbon

Development establishes the fundamental national objective of achieving transition to a competitive, low-carbon economy by 2050.



**Figure 4.1: Overview of National Planning Policy Context**

#### 4.5.1 Climate Action and Low Carbon Development Act 2015

The Climate Action and Low Carbon Development Act, 2015 was signed into law on 10 December 2015. The Act provides for the establishment of a national framework with the aim of achieving a low carbon, climate resilient, and environmentally sustainable economy by 2050, referred to in the Act as the “national transition objective”. The Act provides the tools and structures to transition towards a low carbon economy and it anticipates that it will be achieved through a combination of:

- A national mitigation plan (to lower Ireland's level greenhouse emissions)
- A national adaptation framework (to provide for responses to changes cause by climate change)
- Tailored sectoral plans (to specify the adaptation measures to be taken by each Government ministry)
- Establishment of the Climate Change Advisory Council to advise Ministers and the Government on climate change matters.

#### 4.5.2 Climate Action Plan 2019

In May 2019 Parliament declared a “climate emergency”. As a response to combat this emergency the Government published The *Climate Action Plan 2019* on 17 June 2019. The plan recognises that decisive and urgent action is required to arrest the acceleration of greenhouse gas emissions within the limited window of opportunity that remains. The Plan is ambitious, affecting almost every sector of the economy. The key difference however, between this Plan and previous ones is that it creates new governance structures necessary to implement the far-reaching changes. The key focus of the Plan is to identify how the Government plans to reduce Ireland's, still growing, greenhouse gas emissions.

The Plan includes a new commitment to make Ireland 100% carbon neutral by 2050 and contains 183 action points designed to achieve our national climate change targets. The scale of the challenge is huge, and the Plan identifies the need for everyone to contribute in tackling the challenges posed by climate change. It includes increased renewable electricity targets, the end of single use non-recyclable plastics and new building regulations. It will impact how our homes and businesses are heated, how we generate and consume electricity, how we travel and how food is produced. This includes supporting the growth of Electric Vehicles to at least 800,000 and implementing policies to attain the installation of 600,000 heat pumps to decarbonise heating demand and meeting 70%, of this increased electricity

demand, from renewable sources, all by 2030. This is more than double the current level of renewable energy penetration.

#### 4.5.2.1 Energy Sector

The goal in the energy sector is to make Ireland less dependent on imported fossil fuels. To achieve this, energy needs to be decarbonised by harnessing renewable resources, particularly wind (both onshore and offshore), solar PV and biomass powered CHP.

The targets set out in the Climate Action Plan 2019 envisages a radical step-up of our existing targets in order to meet the required level of emissions reduction by 2030, including:

- A reduction in CO<sub>2</sub> eq. emissions by 50–55% relative to 2030 NDP projections
- An increase in electricity generated from renewable sources to 70%
- An objective to meet 15% of electricity demand by renewable sources contracted under Corporate Power Purchase Agreement (PPA)

The plan sets out four key measures to meet these targets:

#### 1. Harnessing Renewable Energy

The transition to 70% renewable electricity will be made possible by a significant increase in onshore wind, offshore wind and solar PV. The recently announced Renewable Electricity Support Scheme (RESS) will be a key policy measure to drive this growth. The government is targeting that RESS will be open for applications by the end of 2019.

Although RESS is expected to be designed as a series of technology neutral auctions based on the lowest levelised cost of energy (LCOE), the Government has set out the following indicative levels of renewable electricity generation in the Plan:

- at least 3.5 GW of offshore wind
- up to 8 GW of onshore wind
- up to 1.5 GW of grid scale solar energy

The Plan also envisages that 15% of electricity demand will be met by renewable sources contracted under Corporate PPA's.

#### 2. Phasing out Fossil Fuels

Removing fossil fuels from the grid will be essential in the coming years. There are plans to replace coal fired generation with low carbon and renewable technologies. Bord Na Mona are committed to transitioning away from peat by 2028. There will be an end to coal burning at ESB's Moneypoint generation plant by 2025.

#### 3. Micro-generation

There will be a change in the electricity market rules in early 2020 in order to enable micro-generated electricity to be sold by businesses and householders to the grid. The Plan provides this should include provision for a feed-in-tariff for micro-generation to be set at least the wholesale price point. Mechanical electricity meters will be replaced by new smart meters in households by 2024 under the Smart Metering Programme.

#### 4. Other Measures

Other measures include continued support for the DS3 programme, support for research on nascent ocean energy technologies (e.g. floating wind, tidal and wave technologies) and continued support for the development of combined heat and power generation (CHP).

#### 4.5.3 National Mitigation Plan 2017

Ireland's first statutory National Mitigation Plan (NMP), published in July 2017, gives effect to the provisions of the Climate Action and Low Carbon Development Act, 2015, and represents a landmark national milestone in the evolution

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of climate change policy in Ireland and provides for the statutory basis for the transition to a low carbon, climate resilient and environmentally sustainable economy by 2050.

The NMP reaffirms Ireland's commitment to concerted and multilateral action to tackle climate change following the adoption of the legally binding Paris Agreement, of which Ireland is a co-signatory. Under the Paris Agreement, the EU is committed to reducing greenhouse gas emissions by at least 40% by 2030, compared with 2005 levels. The Paris Agreement represents a landmark accord in tackling climate change, which is recognised by all parties as the defining global issue of this generation.

The NMP addresses the role of local authorities in facilitating the transition towards a low carbon economy and recognises that this requires engagement from all levels of Government and that a bottom-up approach is also essential to promote awareness and engagement within individual communities across Ireland. The NMP further states that there "*is also recognition within the Local Authority sector of the need for the sector to assume a leadership role within their local communities to encourage appropriate behavioural change*". Moreover, the Plan emphasises that local authorities also have a key role to play "*in addressing climate change mitigation action and are well places to assess, exploit and support opportunities within their administrative areas, in cooperation with each other and with national bodies, and through the involvement and support of local communities*".

The NMP further emphasises the important role wind energy development plays in its contribution to renewable energy deployment in the state and in the progress towards renewable energy targets. In this regard, the NMP states:

*"To date, wind energy has been the largest driver of growth in renewable electricity. The total amount of renewable generation connected to the grid at December 2016 was 3,120 MW, of which wind generation was approximately 2,796 MW, hydro was 238 MW and biomass was 86 MW. Eirgrid estimates that a total of between 3,900 MW and 4,300 MW of onshore renewable generation capacity will be required to allow Ireland to achieve 40% renewable electricity by 2020. This leaves a further requirement of between 780MW and 1,180MW to be installed by 2020 if the 2020 electricity target is to be reached, requiring an increased rate of installation".*

The National Mitigation Plan (NMP) sets out a number of measures to reduce dependence on fossil fuels. The measures set out in the NMP will lay the foundations for transitioning Ireland to a low carbon, climate resilient and environmentally sustainable economy by 2050. The Plan includes over 100 individual actions for various Ministers and public bodies to take forward. Importantly, the Government recognises that this first Plan does not provide a complete roadmap to achieve the 2050 objective but begins the process of development of medium to long term mitigation choices for the next and future decade.

#### **4.5.4 Department of Communications Climate Action and Environment: Renewable Electricity Support Scheme 2018 (RESS)**

The RESS was published by the government in July 2018. Unlike previous schemes, renewable projects seeking support will compete against one another. This is intended to maximise financial benefits arising from falling technology costs. The new RESS is also intended to support increased community participation in windfarm projects and to facilitate an expansion of renewable electricity up to 55% by 2030. That target of 55% has now been superseded in the Climate Action Plan 2019 which sets out that a target 70% of power generation should come from renewable energy.

#### **4.5.5 Project 2040**

Ireland has developed a strategic outlook for the future development of the country under the 'Project Ireland 2040.' Project 2040 comprises two plans, The National Planning Framework (NPF) and the ten-year National Development Plan (NDP) which will guide strategic development and infrastructure investment at the national level. The NDP 2018-2027 sets out investment priorities of €21.8 billion for climate action for the 10-year period, €7.6 billion is to come from the Exchequer. The remaining investment is to be made by Ireland's semi-state companies and by the private sector. In addition, some €8.6 billion funding has been made available for sustainable mobility projects, mostly in public transport. This substantial funding increase will facilitate upscaling of investments and implementation of actions needed to move the country towards its 2030 climate targets.

Section 1.5 of the NPF sets out that "*sustainability is at the heart of long-term planning and the National Planning Framework seeks to ensure that the decisions we make today, meet our own needs without compromising the ability of future generations to meet their needs.*"

The NPF with the NDP will also set the context for each of Ireland's three regional assemblies to develop their Regional Spatial and Economic Strategies taking account of and co-ordinating Local Authority County and City Development Plans in a manner that will ensure national, regional and local plans align. The National Planning Framework is based on a set of values that will ensure Ireland's "long term economic, environmental and social progress for all parts of the country".

The NPF sets a number of shared goals for Ireland which the Development will contribute to achieving, including:

- Strengthened Rural Economies and Communities
- A Strong Economy, supported by Enterprise, Innovation and Skills
- Transition to a Low Carbon and Climate Resilient Society

NPF Chapter 9 states that "*The Government is committed to a long-term climate policy based on the adoption of a series of national plans over the period to 2050, informed by UN and EU policy. This is being progressed through the National Mitigation Plan and the National Climate Change Adaptation Framework, both of which will be updated and reviewed periodically.*

*In addition to legally binding targets agreed at EU level, it is a national objective for Ireland to transition to be a competitive, low carbon, climate resilient and environmentally sustainable economy by 2050, guided by a long-term vision based on:*

- *an aggregate reduction in carbon dioxide (CO<sub>2</sub>) emissions of at least 80% (compared to 1990 levels) by 2050 across the electricity generation, built environment and transport sectors; and*
- *in parallel, an approach to carbon neutrality in the agriculture and land-use sector, including forestry, which does not compromise capacity for sustainable food production.”*

The NPF states that in relation to rural areas and renewable energy that:

### **Transition to a Low Carbon and Climate Resilient Society**

*"The National Climate Policy Position establishes the national objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. This objective will shape investment choices over the coming decades in line with the National Mitigation Plan and the National Adaptation Framework. New energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy to the major sources of demand.*

### **UN Sustainable Development Goals**

*There is significant alignment between the UN SDGs and the National Planning Framework's National Strategic Outcomes (NSOs) in areas such as climate action, clean energy, sustainable cities and communities, economic growth, reduced inequalities and innovation and infrastructure, as well as education and health."*

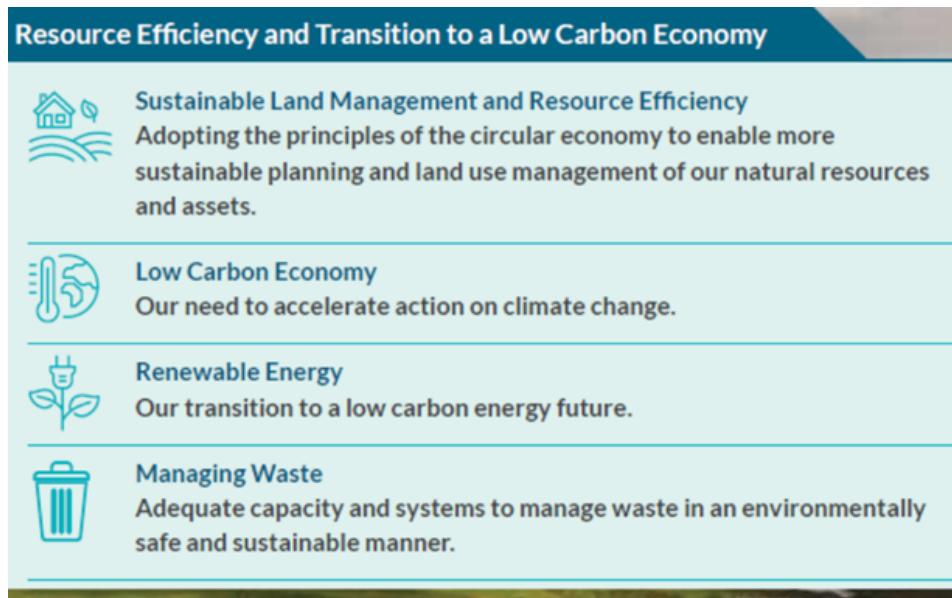


Figure 4.2: Extract from page 117 of the NPF

#### National Policy Objective 54

*"Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions."*

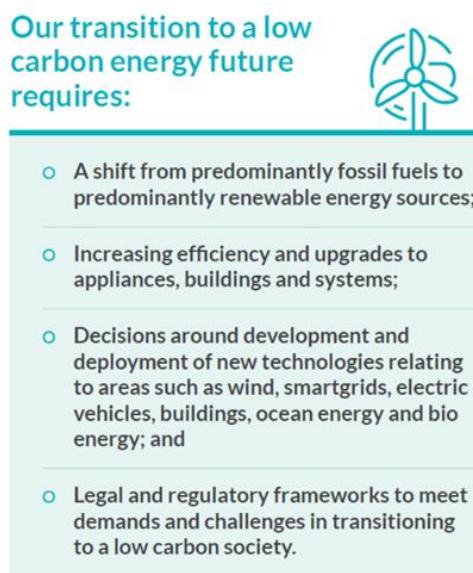


Figure 4.3: Extract from page 122 of the NPF

In the energy sector, transition to a low carbon economy from renewable sources of energy is an integral part of Ireland's climate change strategy and renewable energies are a means of reducing our reliance on fossil fuels. The forthcoming Renewable Electricity Policy and Development Framework will aim to identify strategic areas for the sustainable development of renewable electricity projects of scale, in a sustainable manner, compatible with environmental and cultural heritage, landscape and amenity considerations. The development of the Wind Energy Guidelines and the Renewable Electricity Development Plan will also facilitate informed decision making in relation to onshore renewable energy infrastructure.

#### National Policy Objective 55

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*"Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050."*

#### **4.5.6 Draft Climate Action Plan 2021-2030**

In accordance with the Governance of the Energy Union and Climate Action Regulation, Ireland's first Draft National Energy & Climate Plan (NECP) 2021-2030 is to be submitted by 31 December 2019.

This first draft of the NECP takes into account energy and climate policies developed to date, the levels of demographic and economic growth identified in the Project 2040 process and includes all of the climate and energy measures set out in the National Development Plan 2018-2027.

#### **4.5.7 Regional Planning Guidance – Regional Planning Guidelines (2010-2022)**

The Regional Planning Guidelines will be replaced by Regional Spatial and Economic Strategies (see below).

In the meantime, the current Regional Planning Guidelines (2010) for the border region formulates public policy for the region covering the administrative areas of Counties Cavan, Donegal, Leitrim, Louth, Monaghan and Sligo. The Plan provides a long-term strategic planning framework for the sustainable development of the Region for a 12-year period up to 2022 and seeks to implement the planning framework set out in the National Spatial Strategy (NSS) published in 2002 whilst providing direction to County Development Plans.

Chapter 4 of the RPGs outlines the Regional Economic Strategy and states that existing and potential areas for future growth and development in the border region include, amongst others, renewable energy built on the natural resource base.

Chapter 5 sets out the key physical infrastructure needs of the border region which are required to ensure the successful delivery and implementation of the Settlement and Economic Strategies. A key area of priority investment is Renewable Energy Infrastructure. The Plan recognises the considerable potential that exists for the exploitation of renewable energy generation, particularly wind. The Border Region strongly supports the national targets for renewable energy and reducing energy consumption and seeks to contribute to achieving these targets through the development of sustainable energy policies and practices.

In partnership with constituent Local Authorities, the Border Regional Authority aims to develop an integrated Regional Energy Strategy on renewable energy generation, identifying an optimal mix of renewable energy sources and proposed locations for development, to ensure consistent and complementary development across the border region.

The border region recognises that it is ideally located to make significant contributions, through wind energy, to the (now superseded) revised targets for renewable energy generation with resulting economic benefits.

As part of the Government's reform of local government as set out in Putting People First, the Local Government Reform Act 2014 provided for the existing eight regional authorities and two regional assemblies to be replaced by three new regional assemblies. The Northern and Western Regional Assembly has 21 members and covers the county councils of Cavan, Donegal, Leitrim, Galway, Mayo, Monaghan, Roscommon and Sligo and the city council of Galway. The Regional Planning Guidelines will be replaced by Regional Spatial and Economic Strategies.

#### **The Draft Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Assembly (NWRA)**

The Draft Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Assembly (NWRA) went out to consultation between November 2018 and February 2019. The objective of the draft RSES is to support the implementation of the National Planning Framework – Ireland 2040 and the economic policies and objectives of the Government by providing a long-term planning and economic framework which shall be consistent with the NPF and the economic policies or objectives of the Government.

One of the regional growth ambitions that the draft RSES has identified, is that more strategic actions are required to prepare the region for what is to come. The draft RSES highlights the need to:

"create a combined long-term vision for the future of both energy supply and our ability to generate renewable energy. In order to address our energy requirements our RSES emphasises the need for co-ordination, new thinking, investment and skills to implement change."

The Regional Policy Objectives relating to renewable energy in the Draft NWRA include the following:

*"The NWRA shall coordinate the identification of the potential renewable energy sites of scale in collaboration with Local Authorities and other Stakeholders within three years of the adoption of the RSES."*

*"Support the development of secure, reliable and safe supplies of renewable energy, in order to maximise their value, maintain inward investment, support indigenous industry and create jobs."*

#### 4.5.8 The Donegal County Development Plan 2018-2024

The Development site is located in County Donegal. The relevant development plan is The Donegal County Development Plan 2018-2024. The project will be fully contained within County Donegal.

In November 2018, in proceedings between Planree Limited and Donegal County Council, certain provisions of the County Donegal Development Plan 2018-2024, being Section 6.5(c) and (f) of the Wind Energy standards at Part B: Appendix 3, Development Guidelines as contained in the County Donegal Development Plan 2018-2024 as published were ordered to be deleted and/or removed.

This has created a partial vacuum in local planning policy with regard to wind energy. Donegal County Council is seeking to make a variation to the County Development Plan under section 13 of The Planning and Development Act 2000-2018 [as amended].

It is anticipated that County Development Plan will be varied in the coming months in response to this. In the meantime, whereas reference is made in this EIAR to provisions of the now deleted portion of the wind energy strategy for information purposes only, no reliance should be placed on same by the Council or An Bord Pleanála. The application should be considered on its planning merits, pending the adoption of any variation to the Plan.

The reference to the deleted portion of the wind energy strategy is merely to point out that the site of the Operational Barnesmore Windfarm was categorised as 'Acceptable for Augmentation' under the removed wind energy maps in **Donegal County Development Plan 2018 -2024**. The supporting text is set out below:

*'Acceptable for augmentation of/improvements to existing windfarms': Within these locations, windfarm development would be unacceptable save as augmentation of, or improvements to existing windfarm development subject to compliance with all other objectives and policies of the Plan. The Council recognises the opportunities arising from the use of more efficient turbines on established windfarms, as they generate much higher energy yields per turbine, thereby reducing the need for additional turbines. In most cases, the infrastructure, roads, hardstand, turbines, substation and fences have already been established, so there should be limited additional effect. Wind energy developments within these areas will be considered subject to compliance with all other objectives and policies of the Plan'.*

Relevant planning policies from the current County Donegal Development Plan 2018-2024 that are applicable to Barnesmore Windfarm, and that may be taken into account, include:

**Table 4.2: Key Planning Policies from The County Development Plan (CDP) Donegal, 2018-2024**

| Chapter | Policy Details   |
|---------|--|
| 1       | <p><b>Key Strategic Objectives of the County Development Plan</b></p> <p><b>S-O-2:</b> To support growth of the County through an 'All of County Strategy' in order to ensure effective development and to harness particular strengths and opportunities that exist within the different areas of the County.</p> <p><b>S-O-4:</b> To support the development and implementation of a sustainable economic model for County Donegal embracing growth in areas such as innovation, research and development rural diversification, tourism initiatives, energy advances and the promotion of sustainable start up enterprises and as an integral component of accelerating the socio-economic growth in the north-</p> |

| Chapter | Policy Details   |
|---------|--|
|         | <p>west.</p> <p><b>S-O-6:</b> To protect, enhance and appropriately harness the unique quality and diversity of the environment in the County, through a wide range of measures, supported by proper planning and sustainable development.</p> <p><b>S-O-7:</b> To prioritise key infrastructural investment required throughout the County, such as in transportation networks, water services, waste disposal, energy and communications networks, the provision of education, healthcare, retail, and a wide range of community based facilities and to collaborate on delivery, including in the regional context.</p> <p><b>S-O-8:</b> To facilitate appropriate, sustainable development, innovation, research and technological advances in business, communications and energy development throughout the County and in a Regional, Cross Border and National context.</p> <p><b>S-O-9:</b> To implement the policies of the Development Plan.</p> <p><b>S-O-10:</b> To provide the strategic spatial framework to guide collaboration, investment, community development and sustainable growth</p>   |
| 2       | <p><b>Core Strategy Objectives</b></p> <p><b>CS-O-17:</b> It is an objective of the Council to promote sustainable development and transportation strategies in urban and rural areas including the promotion of measures to:</p> <ul style="list-style-type: none"> <li>(i) Reduce energy demand in response to the likelihood of increases in energy and other costs due to long-term decline in non-renewable resources;</li> <li>(ii) Reduce anthropogenic greenhouse gas emissions; and</li> <li>(iii) Address the necessity of adaptation to climate change.</li> </ul>  |
| 4       | <p><b>General Economic Development</b></p> <p><b>ED-O-5:</b> To promote appropriate rural economic development by encouraging diversification that supports the growth of emerging rural enterprises functionally related to the countryside.</p> <p><b>ED-O-9:</b> To maximise the appropriate development of the county's renewable energy resources and to support and facilitate the creation of a sustainable local renewable energy market place in Donegal from where energy operators can transport, store, trade and export their "<i>local renewable energy product</i>" to domestic and non-domestic markets subject to environmental designations and amenity considerations.</p>  |
| 5       | <p><b>Infrastructure</b></p> <p><b>T-P-15:</b> It is a policy of the Council to require that all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety.</p>   |
| 7       | <p><b>Natural &amp; Built Heritage Policies</b></p> <p>Chapter 7 of the CDP relates to the natural and built heritage. The aim of the Plan is "To conserve, protect and enhance the County's natural, built and cultural heritage for future generations and encourage appreciation, access and enjoyment of these resources."</p> <p>The CDP recognises that the Donegal landscape is a valuable national and local asset that requires sustainable management to facilitate development and growth whilst also retaining, conserving and protecting the character, quality and resultant value of our landscapes and sets out the following three distinct Landscape Character Classifications that have been identified within the county:</p> <ul style="list-style-type: none"> <li>• Areas of Especially High Scenic Amenity (EHSA) deemed to have 'extremely limited capacity to assimilate additional development';</li> <li>• Areas of High Scenic Amenity (HSA) deemed to have 'capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan'; and</li> </ul> |

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|         | <ul style="list-style-type: none"> <li>• Areas of Moderate Scenic Amenity (MSA) deemed to have capacity to absorb suitable development.</li> </ul> <p><b>Objectives</b></p> <p><b>NH-O-1:</b> To protect, sustainably manage and enhance the rich biodiversity of County Donegal for present and future generations.</p> <p><b>NH-O-2:</b> To comply with Article 6 of the Habitats Directive (92/43/EEC) and have regard to the relevant conservation objectives, management plans, qualifying interests and threats to the integrity of Natura 2000 sites.</p> <p><b>NH-O-3:</b> To maintain the conservation value of all existing and/or proposed SACs, SPAs, NHAs and RAMSAR sites including those plant and animal species that have been identified for protection under the EU Habitats Directive (92/43/EEC), EU Birds Directive (79/409/EEC as amended by 2009/147/EC), the Wildlife Acts (1976-2014) and the Flora Protection Order (2015).</p> <p><b>NH-O-4:</b> To ensure the protection and management of the landscape in accordance with current legislation, ministerial and regional guidelines and having regard to the European Landscape Convention 2000.</p> <p><b>NH-O-5:</b> To protect, manage and conserve the character, quality and value of the landscape having regard to the proper planning and development of the area, including consideration of the scenic amenity designations of this plan, the preservation of views and prospects and the amenities of places and features of natural, cultural, social or historic interest.</p> <p><b>NH-O-6:</b> To protect and improve the integrity and quality of Designated Shellfish Waters, and Freshwater Pearl Mussel Basins and to take account of any relevant Shellfish Reduction Program or Fresh Water Pearl Mussel Sub-basin Plan.</p> <p><b>NH-O-10:</b> To maintain and restore ecosystems and to conserve valuable or threatened habitats and species in order to prevent further loss of biodiversity and to meet the EU's target to halt biodiversity loss by 2020 through the implementation of the EU Biodiversity Strategy (2011) or as updated.</p> <p><b>NH-O-11:</b> To ensure the conservation and management of Peatlands in the County.</p> <p><b>Policies</b></p> <p><b>NH-P-1:</b> It is a policy of the Council to ensure that development proposals do not damage or destroy any sites of international or national importance, designated for their wildlife/habitat significance in accordance with European and National legislation including: SACs, Special SPAs, NHAs, Ramsar Sites and Statutory Nature Reserves.</p> <p><b>NH-P-4:</b> It is a policy of the Council to require the consideration of Freshwater Pearl Mussel and any relevant Freshwater Pearl Mussel Sub-basin Plans in all development proposals that fall within their basin of catchment.</p> <p><b>NH-P-5:</b> It is a policy of the Council to require consideration of the impact of potential development on habitats of natural value that are key features of the County's ecological network and to incorporate appropriate mitigating biodiversity measures into development proposals.</p> <p><b>NH-P-6:</b> It is a policy of the Council to protect areas identified as Especially High Scenic Amenity on Map 7.1.1: 'Scenic Amenity'. Within these areas, only developments assessed to be of strategic importance or developments that are provided for by policy elsewhere in this Plan shall be considered.</p> <p><b>NH-P-7:</b> Within areas of 'High Scenic Amenity' (HSA) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.</p> <p><b>NH-P-13:</b> It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the</p> |

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|         | <p>receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: ‘Scenic Amenity’ <b>NH-P-17:</b> It is a policy of the Council to seek to preserve the views and prospects of special amenity value and interest, in particular, views between public roads and the sea, lakes and rivers. In this regard, development proposals situated on lands between the road and the sea, lakes or rivers shall be considered on the basis of the following criteria:</p> <ul style="list-style-type: none"> <li>• Importance value of the view in question</li> <li>• Whether the integrity of the view has been affected to date by existing development</li> <li>• Whether the development would intrude significantly on the view</li> <li>• Whether the development would materially alter the view</li> <li>• In operating the policy, a reasonable and balanced approach shall be implemented so as to ensure that the policy does not act as a blanket ban on developments between the road and the sea, lakes and rivers.</li> </ul> <p><b>Built Heritage</b></p> <p><b>Objectives</b></p> <p><b>BH-O-1:</b> To preserve, protect, enhance and record the architectural heritage of the County.</p> <p><b>Policies</b></p> <p><b>BH-P-1:</b> It is a Policy of the Council to conserve and protect all structures (or parts of structures) and sites contained in the Record of Protected Structures that are of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.</p> <p><b>Archaeological Heritage</b></p> <p><b>Policies</b></p> <p><b>AH-P-1:</b> It is a policy of the Council to protect and enhance the integrity of Archaeological Monuments and their settings and to secure the preservation in- situ of all archaeological monuments included on the Record of Monuments and Places. Preservation by record shall only be considered in exceptional circumstances where the principles of the Department of Arts, Heritage, Gaeltacht and the Islands publication entitled, ‘Framework and Principles for the Protection of Archaeological Heritage’ can be satisfied.</p> <p><b>AH-P-4:</b> It is the policy of the Council to protect where appropriate, the character and setting of any unrecorded archaeological object or site.</p> |
| 8       | <p><b>Natural Resource Development</b></p> <p>Section 8.2 (Energy) and Map 8.2.1 (Wind Energy) were prepared having regard to the Wind Energy Development Guidelines (2006), and the Interim Guidelines for Planning Authorities on Statutory Plans Renewable Energy and Climate Change (2017). The Plan provides for the identification of (i) areas ‘Open to Consideration’, (ii) areas identified as ‘Not Acceptable’ and (iii) areas identified as ‘Acceptable for Augmentation to Existing Windfarms.’</p> <p><b>(1) ‘Open to Consideration’:</b> Within these locations, windfarm developments are open to consideration, subject to compliance with other objectives and policies of the Plan. These areas are open to consideration for appropriate wind energy proposals. They have been identified having regard to a range of factors, including wind energy potential (through the wind speed atlas <a href="http://www.seai.ie">www.seai.ie</a>), existing grid connections, proposed grid connections, natural heritage designations and landscape sensitivity, road infrastructure and where potential conflict with natural heritage designations may be managed effectively.</p> <p><b>(2) ‘Acceptable for augmentation of/improvements to existing windfarms’:</b> Within these locations, windfarm development would be unacceptable save as augmentation of, or improvements to, existing windfarm development subject to compliance with all other objectives and policies of the Plan. The Council recognises the opportunities arising from the use of more efficient turbines on established windfarms, as they generate much higher energy yields per turbine, thereby reducing</p>  |

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|         | <p>the need for additional turbines. In most cases the infrastructure, roads, hardstand, turbines, substation and fences have already been established, so there should be limited additional impact. Wind energy developments within these areas will be considered subject to compliance with all other objectives and policies of the Plan.</p> <p><b>(3) 'Not acceptable':</b> Locations where Windfarm Development would be unacceptable. Areas where wind energy proposals would be unacceptable have been identified having regard to their significant environmental, heritage and landscape constraints. These include; Special Areas of Conservation (SAC's) and Special Protection Areas (Natura 2000) sites, Natural Heritage Areas, areas identified as high and medium landscape sensitivity, areas of Fresh Water Pearl Mussel including the catchments identified in the Sub-Basin Management Plans for Clady, Eske, Glaskeelin, Leannan, Owencarrow and Owenea (as listed in S.I. 296 of 2009), important views and prospects, among others. It is considered that these areas have no capacity for wind energy development.</p> <p><b>Objectives</b></p> <p><b>E-O-1:</b> To develop sustainably a diverse renewable energy portfolio to meet demands and capitalize on the County's competitive locational advantage.</p> <p><b>E-O-2:</b> To facilitate the strengthening of the electricity grid to enable the harnessing and distribution of energy. The Council will support transboundary and trans-national interconnectors to enable the exporting of energy outside of the County.</p> <p><b>E-O-4:</b> To facilitate a sustainable and diverse mix of developments which limit the net adverse impacts associated with global warming such as promoting renewable energy, the growth of local farm produce and the promotion of sustainable modes of public transport.</p> <p><b>E-O-5:</b> To ensure that wind energy developments meet the requirements and standards set out in the DEHLG Wind Energy Development Guidelines 2006, or any subsequent related Guidelines (or as may be amended).</p> <p><b>E-O-6:</b> To ensure that wind energy developments do not adversely impact upon the existing residential amenities of residential properties, and other centres of human habitation (as defined at Para. 6.6, 'Wind Energy', Appendix 3, Development Guidelines and Technical Standards, Part B, Objectives and Policies of the Plan).</p> <p><b>Policies</b></p> <p><b>E-O-1:</b> To develop sustainably a diverse renewable energy portfolio to meet demands and capitalize on the County's competitive locational advantage.</p> <p><b>E-O-2:</b> To facilitate the strengthening of the electricity grid to enable the harnessing and distribution of energy. The Council will support transboundary and trans-national interconnectors to enable the exporting of energy outside of the County.</p> <p><b>E-O-3:</b> To facilitate the sustainable development of Donegal as a Centre of Excellence for renewable technology, and Killybegs as an offshore service centre and wind energy centre.</p> <p><b>E-O-4:</b> To facilitate a sustainable and diverse mix of developments which limit the net adverse impacts associated with global warming such as promoting renewable energy, the growth of local farm produce and the promotion of sustainable modes of public transport.</p> <p><b>E-O-5:</b> To ensure that wind energy developments meet the requirements and standards set out in the DEHLG Wind Energy Development Guidelines 2006, or any subsequent related Guidelines (or as may be amended).</p> <p><b>E-O-6:</b> To ensure that wind energy developments do not adversely impact upon the existing residential amenities of residential properties, and other centres of human habitation (as defined at Para. 6.6, 'Wind Energy', Appendix 3, Development Guidelines and Technical Standards, Part B, Objectives and Policies of the Plan).</p> <p><b>Policies</b></p> <p><b>General</b></p> |

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|         | <p><b>E-P-1:</b> It is policy of the Council to facilitate the development of grid reinforcements including grid connections and transboundary energy network (Electricity and gas) into and through the County and between all adjacent counties and to support the development of cross border grid connections, subject to other objectives and policies of this Plan.</p> <p><b>E-P-2:</b> It is a policy of the Council to facilitate the appropriate development of renewable energy from a variety of sources, including, hydro power, ocean energy, bioenergy, solar, wind and geothermal and the storage of water as a renewable kinetic energy resource, in accordance with all relevant material considerations and the proper planning and sustainable development of the area.</p> <p><b>E-P-10:</b> It is a policy of the Council that development proposals for wind energy shall be in accordance with the requirements of the Wind Energy Development Guidelines: Guidelines for Planning Authorities, 2006 (or as may be amended).</p> <p><b>E-P-12:</b> It is the policy of the Council to: Consider the development of appropriate new wind energy developments within the areas identified as 'Open to Consideration' on the Wind Energy Map 8.2.1, subject to compliance with all other relevant objectives and policies contained within this Plan. Consider the augmentation, upgrade and improvements of existing windfarm developments within areas identified as 'Acceptable for augmentation of/improvements to existing windfarms' on the Wind Energy Map 8.2.1 on a case by case basis subject to compliance with other relevant objectives and policies contained within this plan and the following:</p> <p><b>(a) Repowering</b></p> <p>Repowering is the process of replacing older turbines with more modern ones that have a greater capacity and are more efficient, which results in a net increase of power generated. Repowering may also seek to extend the overall lifespan of the development. Proposals for repowering, shall not result in a net increase in turbines, and it shall be demonstrated that there is no adverse impact on the receiving environment; or</p> <p><b>(b) Extension</b></p> <p>In areas located outside of Natura 2000 sites, proposals for an extension to an existing windfarm (of up to 20% in terms of permitted numbers of turbines or in cases where 5 or less turbines are permitted in a windfarm, one additional turbine) will be considered. The proposal will be required to demonstrate that the additional turbines may be served by the infrastructure serving the existing development; or</p> <p><b>(c) Reapplication</b></p> <p>In areas located outside of Natura 2000 sites, where an existing windfarm has been permitted and this permission has expired, a revised proposal will be considered within the planning unit of the previously permitted development, and where it is demonstrated that there is no net increase in turbines. Not favourably consider wind energy proposals in those areas identified as 'Not Acceptable' on the Wind Energy Map 8.2.1.</p> <p><b>Note that Wind Energy Policies have been deleted until such time as a variation is made to the Donegal County Development Plan.</b></p> |

#### 4.6 Transboundary Planning Policy Context

Section 174 of the Planning and Development Act 2000 makes provisions for the carrying out provisions for the carrying out of an EIA in relation to developments which could have significant effects on the environment in other countries. It gives effect to the EIA Directive and to the provisions of the UNECE Convention on Transboundary Environmental Impact Assessment. It sets out that An Bord Pleanála when determining applications and where appropriate give consideration to the views of any other State in the case of a transboundary EIA and may impose conditions on a grant of permission to reduce the transboundary effects of The Development. While it is noted that The Development is located in proximity to the Northern Ireland the potential for transboundary effects are not significant.

## Derry City and Strabane District Council Local Development Plan

Derry City and Strabane District Council have formally revised the Timetable for the production of the Derry City and Strabane District Local Development Plan (LDP) 2032.

### The Department of the Environment's 'Strategic Planning Policy Statement for Northern Ireland'

The SPPS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland. It reflects the Environment Minister's expectations for delivery of the planning system

The SPPS has been reviewed in the context of transboundary issues but there is no material policy in place.

### The Regional Development Strategy 2035 (RDS)

The Regional Development Strategy 2035 (RDS) sets out the strategy for the future development of Northern Ireland up to 2035. The RDS was published in March 2012 considers the key driving forces such as population growth, household number growth, transportation needs, economic changes and spatial implications for a divided society. The strategy aims to deliver the spatial aspects of the Programme for Government. In particular Policy RG5 '*Deliver a sustainable and secure energy supply.*'

Policy RG5 seeks to deliver reliable and secure sources of energy to communities and businesses across the region:

- **Increase the contribution that renewable energy can make to the overall energy mix.** There will need to be a significant increase in all types of renewable electricity installations and renewable heat installations, including a wide range of renewable resources for electricity generation both onshore and offshore to meet the Region's needs.
- **Strengthen the grid.** With an increasing number of renewable electricity installations as well as increasing numbers of renewable heat installations we will need to strengthen the grid. It will be necessary to integrate heat and electricity infrastructure (e.g. district heating networks and new electricity grid) alongside new road infrastructure development at the planning stage. If electric transport becomes more widespread, there will need to be a reliable recharging network. It also means increasing electricity interconnection capacity to strengthen the linkages between transmission and distribution networks.
- **Provide new gas infrastructure.** New gas infrastructure, including provision of natural gas to new areas of Northern Ireland would enhance diversity of energy supply. Gas storage provision would have a positive impact on the security and reliability of future gas supply. It would also have considerable environmental benefits as it is the least polluting fossil fuel.
- **Work with neighbours.** This will ensure a secure energy supply from competitive regional electricity and gas markets in the EU's Internal Market.
- **Develop "Smart Grid" Initiatives.** This will improve the responsiveness of the electricity grid to facilitate new forms of renewable generation, to improve reliability, productivity, and energy efficiency and empower customers to make a more informed choice in relation to their energy usage.

### 4.7 Other Core Planning Policy Documents

Key consideration has been given to the following guidelines, circulars and strategies in the context of the Development proposals.

#### 4.7.1 The Wind Energy Development Guidelines – Guidelines for PAs June 2006

The 2006 Wind Energy Development Guidelines advise that a reasonable balance must be achieved between meeting Government Policy on renewable energy and the proper planning and sustainable development of an area and it provides advice in relation to the information that should be submitted with planning applications. The effects on residential amenity, the environment, nature conservation, birds and the landscape should be addressed. It states that particular landscapes of very high sensitivity may not be appropriate for wind energy development.

The 'Wind Energy Development Guidelines for Planning Authorities' (DoEHLG, 2006) are also currently the subject of a targeted review. The proposed changes to the assessment of effects associated with onshore wind energy developments are outlined in the document 'Proposed Revisions to Wind Energy Development Guidelines 2006 – Targeted Review' in relation to noise, proximity and shadow flicker (December 2013). The new Wind Energy Guidelines were due to be

published in Quarter 1 2019 however some delays arose to the publication of World Health Organisation (WHO) noise standards.

There will be an eight-week public consultation on the revised draft Guidelines, with the aim of issuing the finalised Guidelines. In the meantime, the current 2006 Wind Energy Guidelines remain in force.

#### **4.7.2 Circular PL5/2017 Wind Energy Development Guidelines 2006 – Update on Review**

The Interim Guidelines identify specific national policies relating to renewable energy and wind energy to which planning authorities must have regard to in the adoption or variation of statutory development plans.

The Interim Guidelines do not replace or amend the existing Wind Energy Development Guidelines 2006, but it is intended that the administrative provisions contained therein will be incorporated into the draft revisions to the 2006 Guidelines. The key aspects of the preferred draft approach are:

- the application of a more stringent noise limit, consistent with World Health Organisation noise standards, in tandem with a new robust noise monitoring regime, to ensure compliance with noise standards;
- a visual amenity setback of four times the turbine height between a wind turbine and the nearest residential property, subject to a mandatory minimum distance of 500 metres between a wind turbine and the nearest residential property;
- the elimination of shadow flicker, and
- the introduction of new obligations in relation to engagement with local communities by windfarm developers along with the provision of community benefit measures.

The Interim Guidelines are being issued under section 28 of the Act. Under this provision, An Bord Pleanála are required to have regard to the guidelines and to apply any specific planning policy requirements of the guidelines.

#### **4.7.3 National Landscape Strategy for Ireland 2015-2025**

The National Landscape Strategy for Ireland sets out a roadmap. The objectives of the National Landscape Strategy are to:

- *implement the European Landscape Convention by integrating landscape into our approach to sustainable development;*
- *establish and embed a public process of gathering, sharing and interpreting scientific, technical and cultural information in order to carry out evidence-based identification and description of the character, resources and processes of the landscape;*
- *provide a policy framework, which will put in place measures at national, sectoral - including agriculture, tourism, energy, transport and marine - and local level, together with civil society, to protect, manage and properly plan through high quality design for the sustainable stewardship of our landscape;*
- *ensure that we take advantage of opportunities to implement policies relating to landscape use that are complementary and mutually reinforcing and that conflicting policy objectives are avoided in as far as possible.*