



Chapter 5: Policy and Legislative Context

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5 POLICY AND LEGISLATIVE CONTEXT

5.1 Introduction

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

5.2 International Climate Change Policy Context

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

- 5.2.1.7 The Paris Agreement and recent Climate Change Conferences represent a commitment which renewable energy and GHG reduction targets in the UK seek to meet, which are established in UK and Scottish legislation and are described in the following sections.

5.3 UK Policy and Legislative Context

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

5.3.2 Climate Change Act 2008

- 5.3.2.1 The Climate Change Act 2008 ('the 2008 Act') set out a commitment to reduce GHG emissions by 80% against 1990 levels by 2050 and provides a system of carbon budgeting with a series of five-year carbon budgets from 2008 to 2050. The 2008 Act also established the Committee on Climate Change ('CCC'), which reports to Parliament on progress made in reducing GHG emissions.
- 5.3.2.2 In June 2019, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 revised the GHG reduction target to a 100% (or 'net zero') reduction against 1990 levels by 2050.
- 5.3.2.3 There are six carbon budgets covering 2008 to 2037. The UK is currently in the Fourth Carbon Budget period (2023 to 2027). The Fourth Carbon Budget was set at 1,950 million tonnes of carbon dioxide equivalent (MtCO₂e) and was implemented via the Carbon Budget Order 2011.

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

- 5.3.3.1 The Clean Power 2030 Action Plan: A New Era of Clean Electricity¹ report was published in December 2024. The aim of the Action Plan is for the UK to accelerate its clean energy generation to increase energy security, affordability, and reduce GHG emissions, to generate at least 95% of energy generation from clean sources. The Action Plan builds on the National Energy System Operator's (NESO's) Clean Power 2023² report.

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

- 5.3.4.1 The Powering Up Britain Energy Security Plan³ ('ESP') was published in March 2023, and builds on the Security Strategy and the Net Zero Strategy (NZS). The ESP emphasises the

¹ Department for Energy Security and Net Zero (2024) *Clean Power 2030 Action Plan: A New Era of Clean Electricity* [Online] Available at: <https://www.gov.uk/government/publications/clean-power-2030-action-plan>. (Accessed 20/02/2025).

² National Energy System Operator (2024) *Clean Power 2030* [Online] Available at: <https://www.neso.energy/publications/clean-power-2030>. (Accessed 20/02/2025).

³ Department for Energy Security and Net Zero (2023) *Powering Up Britain: Energy Security Plan* [Online] Available at: <https://www.gov.uk/government/publications/powering-up-britain/powering-up-britain-energy-security-plan>. (Accessed 14/02/2025).

importance of decarbonisation of the energy sector in gaining energy security and independence.

- 5.3.4.2 The ESP outlines an aim for 70 gigawatts (GW) of ground and rooftop solar capacity by 2035, a five-fold increase on current capacity. The ESP reiterates the importance of solar power in meeting energy security and climate change goals, in particular ground-mounted solar, as it is one of the cheapest forms of electricity generation and is readily deployable at scale.

5.3.5 British Energy Security Strategy (April 2022)

- 5.3.5.1 The British Energy Security Strategy⁴ was published in April 2022 and sets out the Government's plan to achieve greater energy independence. The Strategy emphasises the importance of transitioning from fossil fuels to clean renewable sources for greater energy security. Government measures and targets to increase the deployment of renewable energy sources, including solar energy, are set out in the Strategy. A five-fold increase in the deployment of solar energy is expected by 2035 and the Government intends to make amendments to planning policies to support this deployment.
- 5.3.5.2 The Energy Act 2023 received Royal Assent in October 2023. The Energy Act 2023 builds on the ESS' aims to achieve greater energy independence and security, and the importance of transitioning from fossil fuels to clean renewable energy sources to achieve this.

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

- 5.3.6.1 The Net Zero Strategy⁵ ('NZS') was published in October 2021 and includes policies to help the UK meet its carbon budgets set under the 2008 Act. The NZS includes plans for emissions reductions across sectors, including the power sector. The NZS states that the net zero economy will be underpinned by clean electricity, and commits to fully decarbonising the power system by 2035.

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

- 5.3.7.1 The Energy White Paper 'Powering our Net Zero'⁶, published on 14th December 2020, builds on the Government's 'Ten Point Plan' to set out a strategy for moving towards cleaner energy systems. Chapter 2 of the White Paper considers power generation specifically and

⁴ Department for Business, Energy & Industrial Strategy (2022) *British Energy Security Strategy* [Online] Available at: [British Energy Security Strategy \(publishing.service.gov.uk\)](https://www.gov.uk/government/publications/british-energy-security-strategy). (Accessed 14/02/2025).

⁵ Department for Energy Security and Net Zero (2021) *Net Zero Strategy: Build Back Greener* [Online] Available at: <https://www.gov.uk/government/publications/net-zero-strategy>. (Accessed 14/02/2025).

⁶ Department for Energy Security and Net Zero (2020) *Energy White Paper Powering our Net Zero* [Online] Available at: <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>. (Accessed 14/02/2025).

highlights the importance of accelerating the deployment of clean electricity generation in decarbonisation.

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

“Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios.”

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

5.3.8.1 The ‘Net Zero – The UK’s Contribution to Stopping Global Warming’⁷ report was published by the CCC in May 2019, which responded to a request from the Governments of the UK, Wales and Scotland, to reassess the UK’s long-term emissions targets.

5.3.8.2 In June 2023, the CCC published their latest Report to the UK Parliament entitled ‘Progress in Reducing Emissions’⁸. In the Foreword Lord Deben, Chair of the CCC states:

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

5.3.8.3 The Report also outlines that:

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

5.4 Scottish Policy and Legislative Context

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

5.4.2 Climate Change (Scotland) Act 2009

5.4.2.1 The Climate Change (Scotland) Act 2009⁹ sets the statutory framework for GHG emissions reductions in Scotland. Targets were set for the year 2050 (an 80% reduction) and 2020 (a 42% reduction). These targets have since been updated in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.

⁷ Climate Change Committee (2019) Net Zero – The UK’s contribution to stopping global warming [Online] Available at: <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>. (Accessed 14/02/2025).

⁸ Climate Change Committee (2023) Progress in Reducing Emissions [Online] Available at: <https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/>. (Accessed 14/02/2025).

⁹ HM Government (2009) Climate Change (Scotland) Act 2009 [Online] Available at: <https://www.legislation.gov.uk/asp/2009/12/contents>. (Accessed 18/02/2025).

- 5.4.2.2 The 2009 Act also established climate change duties required to be exercised by Public Bodies.

5.4.3 Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

- 5.4.3.1 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019¹⁰ modifies the emissions reduction targets set out previously in the Climate Change (Scotland) Act 2009. The Act amends the Climate Change (Scotland) Act 2009 by replacing the annual and interim targets with a system of five-year carbon budgets. Every year between 2026 and 2045 (the net-zero emissions target year) is covered by a budget, which will set the amount of GHG emissions allowed during that period.

5.4.4 Climate Emergency Declaration

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

5.4.5 Scottish Borders Council Climate Emergency

- 5.4.5.1 Scottish Borders Council declared a climate emergency in September 2020, which was followed up with the development of a Climate Change Route Map in June 2021¹¹. Priority actions to deliver the Route Map were identified and approved in March 2022. The Climate Change Route Map aims to set the Scottish Borders on a path to Net Zero by 2045, in which the amount of greenhouse gas emissions produced do not exceed what is absorbed naturally or through technology.

5.5 Energy Policy

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

- 5.5.1.1 The Scottish Energy Strategy 2017: The Future of Energy in Scotland¹² outlines the vision for the future energy system in Scotland, up until 2050, with key priorities being the development of an integrated approach that considers both the use and supply of energy for heat, power and transport. It aims to strengthen the development of local energy

¹⁰ HM Government (2019) *Climate Change (Emissions Reduction Targets) (Scotland) Act 2019* [Online] Available at: <https://www.legislation.gov.uk/asp/2019/15>. (Accessed 18/02/2025).

¹¹ Scottish Borders Council Climate Change Route Map, June 2021 [Online] Available at: [Item No. 12 - Appendix 1 - SB CLIMATE CHANGE ROUTE MAP FINAL.pdf](#)

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

projects, protect consumers and support the development of climate change policies. In addition, it states that Scotland's long term climate change targets will require the complete decarbonisation of its energy grid, with renewable energy therefore meeting a very significant share of the country's energy requirements.

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

- 5.5.2.1 Further support for large scale solar can be found in the draft Energy Strategy and Just Transition Plan for Scotland¹³. This sets out the Scottish Government's key ambitions for energy, including the following key ambition; *"Increased contributions from solar, hydro and marine energy to our energy mix"*. It further states that

"Our aim is to maximise the contribution solar can make to a just, inclusive, transition to net zero. We will support the sector to minimise barriers to deployment wherever possible and continue to provide support through our renewable support schemes". In addition, it sets out the ambition; "Generation of surplus electricity, enabling the export of electricity and renewable hydrogen to support development of our own resources and additional energy storage".

- 5.5.2.2 The draft Solar Vision for Scotland¹⁴, contained in this document, lays out a strong supportive policy and enabling environment for additional solar energy developments, without naming specific targets for deployment.
- 5.5.2.3 In October 2023, the Scottish Government announced a proposal for a solar deployment ambition of 4 – 6 GW by 2030¹⁵. The letter to the Net Zero, Energy and Transport Committee states that there has been significant industry interest for the Scottish Government to consider setting a solar deployment ambition. A final decision on the proposed solar deployment target is due to be published with the Energy Strategy and Just Transition Plan.

5.6 Planning Policy and Guidance

5.6.1 Planning Context

- 5.6.1.1 This Section sets out the legislative context and planning policy that is relevant to the Proposed Development and defines the requirements to achieve planning permission:
- *The Electricity Act 1989 and the Electricity Works (Environmental Impact Assessment) (Scotland) 2017*: in this Environmental Impact Assessment Report (EIAR) the applicant needs to demonstrate that the necessary and appropriate surveys, analysis and reporting has been undertaken to meet the requirements as set out in this legislation;
 - *National Planning Policy Framework 4 (NPF4)*: this document sets out the policies of the Scottish Government in order to achieve its planning objectives. This is the primary

¹³ Scottish Government (2023) 'Draft Energy Strategy and Just Transition Plan' [Online] Available: <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/> (Accessed August 2024).

¹⁴ Draft Solar Vision for Scotland. <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/> [Online] (Accessed January 2025).

¹⁵ Scottish Government (2023) Announcement of a Solar Ambition for Scotland [Online] Available: <https://www.gov.scot/publications/foi-202400392034/> (Accessed May 2025).

policy source to inform the nature, location, form and scale of a renewable energy development; and

- *Scottish Borders Local Development Plan (LDP2) (2024)*: the Scottish Borders Local Development Plan sets out the planning policies intended to guide development within the Scottish Borders area. Policies considered most relevant to the Proposed Development have been included under Section 5.6.4.

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

- 5.6.2.1 Applications for consent for the construction of an electricity generating station with a capacity exceeding 50 MW must be made under Section 36 of the Electricity Act 1989 ('the 1989 Act'). If granted consent, deemed planning permission may be granted by Scottish Ministers under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 ('the 1997 Act').
- 5.6.2.2 The Proposed Development will have a generating capacity over 50 MW and therefore it will be considered by the Scottish Government's Energy Consents Unit (ECU) and determined by the Scottish Ministers. If granted consent under Section 36 of the 1989 Act, deemed planning permission may be granted by Scottish Ministers under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 ('the 1997 Act').

5.6.3 Planning and Infrastructure Bill (2025)

- 5.6.3.1 In March 2025 the UK Government published the Planning and Infrastructure Bill¹⁶, with the aim to support the delivery of new homes and critical infrastructure, as well as to support delivery of the Clean Power 2030 target by ensuring key clean energy projects are built as quickly as possible.
- 5.6.3.2 Whilst most of the Bill only applies to England and Wales, it proposes amendments to the Electricity Act to speed up the consenting process in Scotland. These will not yet be law at the time of this application, but some provisions of the new Bill may apply to this application, if the Bill is enacted and its provisions are implemented by Scottish Ministers during the life of this application.

5.6.4 National Planning Framework 4 (NPF4) (2023)

- 5.6.4.1 The National Planning Framework 4 ('NPF4')¹⁷ was adopted on 13th February 2023, replacing and consolidating the previous National Planning Framework 3 and Scottish Planning Policy ('SPP'). The purpose of NPF4 is to guide spatial development in Scotland by setting out national planning policies, designating national developments and highlighting regional spatial priorities.

¹⁶ UK Parliament (2025) 'Planning and Infrastructure Bill' [Online] Available at <https://bills.parliament.uk/bills/3946> (Accessed May 2025).

¹⁷ Scottish Government (2023) 'National Planning Framework 4' [Online] Available at: <https://www.gov.scot/publications/national-planning-framework-4/> (Accessed July 2024).

5.6.4.2 The National Planning Framework 4 identifies six overarching spatial principles, several of which are relevant to the Bowshiel Farm Solar PV and BESS development. These are:

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

5.6.4.3 The aim of these principles is to support delivery of:

- **“Sustainable places,** where we reduce emissions, restore and better connect biodiversity;
- **Liveable places,** where we can all live better, healthier lives; and
- **Productive places,** where we have a greener, fairer and more inclusive wellbeing economy.”

National Developments

5.6.4.4 The NPF4 also identifies eighteen ‘*National Developments*’, which the NPF4 defines as significant developments of national importance.

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

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

Regional Priorities

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

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

Relevant NPF4 Policies

5.6.4.9 Part 2 of NPF4 includes the national planning policies for Scotland. The most relevant of these are included below:

- **Policy 1 – Tackling the Climate and Nature Crises:** This policy states that significant weight will be given to the global climate and nature crises when considering all development proposals.
- **Policy 2 – Climate Mitigation and Adaptation:** This policy promotes development proposals that minimises GHG emissions and adapts to the current and future impacts of climate change.
- **Policy 3 – Biodiversity:** This policy requires all development proposals to contribute to the enhancement of biodiversity and strengthen nature networks. Proposals for national developments will only be supported where it can be shown that proposals will conserve, restore and enhance biodiversity, and where the criteria included under Part B has been met. This includes assessing and mitigating against any potential negative effects (Part B, iii.) and providing significant biodiversity enhancements (Part B, iv.).
- **Policy 4 – Natural Places:** This policy seeks to protect the natural environment, and states that proposals with an unacceptable impact will not be permitted. Development proposals that are likely to have a significant effect on a European site (Special Area of Conservation or Special Protection Areas) will be subject to an appropriate assessment of the implications for the conservation objectives.
- **Policy 5 – Soils:** This policy states that a detailed site-specific assessment will be required for developments on peatland, carbon-rich soils and priority peatland habitats. This will be required to identify:
 - the baseline depth, habitat condition, quality and stability of carbon rich soils;
 - the likely effects of the development on peatland, including on soil disturbance; and
 - the likely net effects of the development on climate emissions and loss of carbon.

This policy also lists the development types permitted on peatland, carbon-rich soils and priority peatland habitats, and includes renewable energy developments.

- **Policy 6 – Forestry, Woodland and Trees:** This policy seeks to protect woodland and trees. It sets out where development proposals will not be supported, including those that result in any loss of ancient woodlands, and ancient and veteran trees.
- **Policy 7 – Historic Assets and Places:** This policy requires development proposal applications with potential impacts on historic assets or places to be accompanied by an appropriate assessment.
- **Policy 11 – Energy:** This policy indicates that development proposals for renewable or low carbon energy will be supported. The policy states that project design must demonstrate how the following impacts have been addressed:
 - i. impacts on communities and individual dwellings, including; residential amenity, visual impact, noise and shadow flicker;
 - ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
 - iii. public access, including impact on long distance walking and cycling routes and scenic routes;

- iv. impacts on aviation and defence interests including seismological recording;
- v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- vi. impacts on road traffic and on adjacent trunk roads, including during construction;
- vii. impacts on historic environment;
- viii. effects on hydrology, the water environment and flood risk;
- ix. biodiversity including impacts on birds;
- x. impacts on trees, woods and forests;
- xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
- xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and,
- xiii. cumulative impacts.

5.6.4.10 In considering these impacts, the policy states that significant weight will be placed on the contribution of the proposal to renewable energy generation and GHG emissions reduction targets.

- **Policy 20 – Blue and Green Infrastructure:** This policy seeks to protect and enhance blue and green infrastructure. Development proposals incorporating new or enhanced blue and/or green infrastructure will be supported;
- **Policy 22 – Flood Risk and Water Management:** This policy states that developments should not increase the risk of surface water flooding. Surface water should be managed through Sustainable Urban Drainage Systems (SUDS), and impermeable surfaces should be minimised where possible; and
- **Policy 23 – Health and Safety:** This proposal seeks to protect residential amenity, and should be designed to have no adverse impacts on health and wellbeing. Development proposals to have significant adverse effects on air quality, or raise unacceptable noise impacts, will not be supported.

5.6.5 Local Policy Context

5.6.5.1 The Local Development Plan (LDP) applicable to the Site comprises the following, and alongside NPF4, represents the Development Plan for the area:

- Scottish Borders Local Development Plan (LDP2) (2024).

Scottish Borders Local Development Plan (LDP2)

5.6.5.2 The Scottish Borders Local Development Plan (LDP2)¹⁸ was adopted on 22nd August 2024. LDP2 replaces the previous Local Development Plan that was adopted on 12th May 2016. LDP2 comprises the policies that will guide future development under Volume One, and settlement profiles under Volume Two.

5.6.5.3 LDP2 states that the plan promotes net zero GHG emissions by 2045. The following policies are considered most relevant and will be considered as part of the EIA process:

- **Policy PMD1 – Sustainability:** This policy includes a list of sustainability principles which the Council will expect to be incorporated into new developments;
- **Policy ED9 – Renewable Energy Development:** This policy states that Scottish Borders Council will support development proposals for all forms of renewable energy developments, including solar arrays. Proposals will be assessed in accordance with NPF4 Policy 11 paragraphs b) to f) and other relevant policies of NPF4;
- **Policy EP1 – International Nature Conservation Sites and Protected Species:** This policy states that development proposals which will have a likely significant effect on a designated or proposed European site, are only permissible where an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site;
- **Policy EP2 – National Nature Conservation Sites and Protected Species:** Development proposals which are likely to have a significant adverse effect on a Site of Special Scientific Interest (SSSI), a National Nature Reserve (NNR), or nationally protected habitats or species will normally not be permitted;
- **Policy EP3 – Local Biodiversity and Geodiversity:** This policy indicates that proposals which negatively impact biodiversity through impacts on habitats and species will not be permitted, unless the benefits outweigh the adverse impacts. The biodiversity value of the site should be enhanced and a net gain ensured as appropriate. Development proposals that would adversely impact a local geodiversity site will only be permitted where the environmental benefits outweigh the damage, and suitable mitigation is secured;
- **Policy EP4 – National Scenic Areas:** This policy aims to protect the scenic qualities of the two National Scenic Areas (NSAs) at Eildon and Leaderfoot and Upper Tweeddale. Proposals will only be permitted where adverse effects on the qualities of the NSAs are outweighed by environmental, social or economic benefits of national importance;
- **Policy EP5 – Special Landscape Areas:** This policy seeks to protect Special Landscape Areas (SLAs) and safeguard their landscape quality;
- **Policy EP7 – Listed Buildings:** Development proposals with a potentially significant impact on historic assets should be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset. The assessment should identify the likely visual or physical impacts, including cumulative effects;

¹⁸ Scottish Borders Council (2024) *Scottish Borders Adopted Local Development Plan 2024* [Online] Available at: <https://www.scotborders.gov.uk/plans-guidance/local-development-plan>. (Accessed 21/02/2025).

- **Policy EP8 – Historic Environment Assets and Scheduled Monuments:** This policy aims to protect heritage assets including Scheduled Monuments, Battlefields and archaeological assets of regional or local significance. Proposals that affect heritage assets may require detailed investigations, and those that adversely affect an asset will need to include a mitigation strategy;
- **Policy EP9 – Conservation Areas:** This policy seeks to preserve the historic character and appearance of Conservation Areas;
- **Policy EP13 – Trees, Woodlands and Hedgerows:** This policy aims to protect woodland resources from adverse impacts. Replacement planting within the Scottish Borders area will be required where there is an unavoidable loss of trees;
- **Policy IS8 – Flooding:** Development proposals will be assessed against NPF4 Policy 22: Flood Risk and Water Management. A Flood Risk Assessment and a report of the measures proposed to mitigate flood risk will be required for all applications; and
- **Policy IS9 – Waste Water Treatment Standards and Sustainable Urban Drainage:** All development proposals will be required to incorporate Sustainable Urban Drainage Systems (SUDS) measures. A drainage strategy should be submitted to include treatment and flood attenuation measures, and details for the long-term maintenance of any necessary features.

Relevant Supplementary Planning Guidance (SPG)

5.6.5.4 In addition to LDP2, the Council has issued the following SPG documents which provide additional detail on specific policy topic areas:

- Supplementary Planning Guidance for Biodiversity (2006);
- Landscape and Development (2008);
- Local Biodiversity Action Plan (2018);
- Local Geodiversity Sites (2020);
- Local Landscape Designations (2012);
- Renewable Energy Supplementary Planning Guidance (2018);
- Sustainable Urban Drainage Systems (2020); and
- Trees and Development (2020).

5.6.6 Planning Advice Notes

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

- PAN 60 Planning for Natural Heritage (2000);
- PAN 61 Planning and Sustainable Urban Drainage Systems (2001);
- Draft Planning Guidance: Biodiversity (2023);

- Flood Risk: Planning Advice (2015);
- PAN 75 Planning for Transport (2005);
- PAN 79 Water and Drainage (2006);
- PAN 3/2010 Community Engagement (2010);
- PAN 1/2011 Planning and Noise (2011);
- PAN 2/2011 Planning and Archaeology (2011);
- PAN 1/2013 Environmental Impact Assessment (2013); and
- Large Photovoltaic Arrays: Planning Advice.

5.7 Summary

- 5.7.1.1 This Chapter outlines the relevant climate change and planning policy and legislation that are relevant to the Proposed Development.
- 5.7.1.2 A detailed assessment of the Proposed Development against the policy context is included within the Planning Statement. The Planning Statement is separate from the EIAR and accompanies the S36 application.