

4 THE STATUTORY & POLICY FRAMEWORK

4.1 Introduction & Statutory Framework

- 4.1.1 This chapter describes the legislative and policy background relevant to the proposed wind farm. It refers to energy and planning policy at a national and local level. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the ES to ensure that it provides the appropriate information for the consideration of the application for consent.
- 4.1.2 The DNS application is submitted under Section 62 D of the Town and Country Planning Act 1990 (as amended by the Planning (Wales) Act 2015).
- 4.1.3 The starting point for determining the application is the provisions of the statutory Development Plan as far as these are material to the development for which planning permission is being sought. In this regard, the provisions of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) Section 38 (6) and those of the Town and Country Planning Act 1990 (TCPA 1990) Section 70(2) are relevant.
- 4.1.4 Section 38(6) of the PCPA 2004 states:
- “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*
- 4.1.5 Section 70(2) of the TCPA 1990 states:
- “In dealing with an application for planning permission or permission in principle the authority shall have regard to:*
- i. the provisions of the development plan, so far as material to the application;*
 - ii. any considerations relating to the use of the Welsh language, so far as material to the application;*
 - iii. any local finance considerations, so far as material to the application, and*
 - iv. any other material considerations”.*
- 4.1.6 The site is located across two administrative areas; the eastern half of the site lies within Torfaen County Borough Council area and the western half of the site lies within Caerphilly County Borough Council area. Therefore the Development Plan relevant to the application is made up of the respective Local development Plans for these two local authority areas and also Future Wales.
- 4.1.7 The planning system in England and Wales is one which is plan led and as such, in undertaking planning decisions, a planning balance is required with weight being given as appropriate to applicable material considerations. National planning policy is an important material consideration, in particular where such policies comprise of up-to-date policy statements.
- 4.1.8 It is important to note that this chapter on relevant planning policy does not seek to set out a ‘planning balance’ on the overall merits of the Proposed Development. This is the role of the accompanying Planning Statement which is separate from the ES, and which is submitted in support of the DNS application. Therefore, this chapter sets out objectively, the content of relevant planning policy which the Welsh Ministers will need to take into account in reaching a decision on the merits of the DNS application.
- 4.1.9 It should also be noted that planning policies within Development Plans can pull in opposite directions when considering the merits of a particular proposal. It is therefore important to identify the most relevant or dominant policies in a Development Plan which have a particular relevance to the development for which planning permission is being sought. A decision on any planning application should also be taken in accordance with the Development Plan when it is read as a whole.

4.1.10 It is with these principles that the relevant policies from the Development Plan and other relevant land use policy considerations as set out in the national planning policy have been set out. The other topic based chapters within this ES may also have made reference to some aspects of planning policy which are of particular relevance to the subject matter of the individual chapters.

4.2 Welsh Climate Change & Energy Legislation & Policy: Summary

4.2.1 The supporting Planning Statement will set out a detailed consideration of relevant climate change and energy legislation and policy. A summary of relevant Welsh provisions is set out below.

The Wellbeing of Future Generations (Wales) Act 2015

4.2.2 In April 2015 the Welsh Assembly passed into law The Wellbeing of Future Generations (Wales) Act, (the “WBFG Act”) which is primary legislation requiring all Wales’ based public bodies - such as local authorities, health boards etc - to put long-term sustainability at the forefront of their thinking, and to work with other organisations and the public to prevent and tackle ongoing social, environmental, and economic problems. The Act was decided upon following an extensive consultation period known as the National Conversation. It passed into law in April 2015.

4.2.3 In order to create a more sustainable Wales, public bodies must work towards seven Well-being Goals and enact the five Ways of Working. One fundamental challenge in Wales which is a focus of the Act is dealing with climate change and the potential impact upon the prosperity and quality of life in Wales. The legislative aims of the WBFG Act are reflected within both Planning Policy Wales and Future Wales.

The Environment (Wales) Act 2016

4.2.4 The Environment (Wales) Act 2016 set in place an obligation on the Welsh Government to reduce greenhouse gas emissions by 80% against 1990 levels by 2050.

Prosperity for All: A Low Carbon Wales (2019)

4.2.5 The Welsh Government published the document ‘Prosperity for All: A Low Carbon Wales’ in March 2019. The document outlines the Welsh Government’s proposed approach to emissions reductions and transitioning to a low carbon economy in accordance with the required carbon cuts enshrined in the Environment Act 2016.

Climate Emergency declared in Wales (2019)

4.2.6 A critical part of the response to the challenge of climate change was the Climate Emergency which was declared in Wales on 29 April 2019. The declaration of climate emergency needs to be viewed in the context in which it was declared (advice from the Committee on Climate Change) and in response to commitments under the Paris Agreement and what followed from it as a result of the declaration. The Welsh Government has committed to achieving a carbon neutral public sector by 2030 and to coordinating action to help other areas of the economy to make a decisive shift away from fossil fuels, involving academia, industry and the third sector and to achieve Net Zero by 2050.

Net Zero Wales, Carbon Budget 2 (2021)

4.2.7 The Welsh Government published Net Zero Wales Carbon Budget 2 (2021-2025) (“the Net Zero Wales Plan”) on 28th October 2021.

4.2.8 The Cabinet Foreword (page 6) states that “*in line with the advice from the Climate Change Committee (CCC), this must be a decade of action in Wales. We need to make more progress in the next 10 years than we have in the last 30*”.

- 4.2.9 The plan states that the Net Zero Wales Plan represents a new phase in the country's decarbonisation journey with a new legally binding Net Zero target¹. It focuses on Wales's Second Carbon Budget (2021-2025) but looks ahead to Carbon Budget 3 and Wales's 2030 target as well as Net Zero by 2050.
- 4.2.10 The plan sets out that it fulfils the Welsh Ministers' statutory duty to prepare and publish a report before the end of 2021 setting out their proposals and policies for meeting Carbon Budget 2. It contains 123 policies and proposals across all ministerial portfolios.
- 4.2.11 The plan states (page 10) that in 2019 the Welsh Government accepted the CCC's recommendation to increase the ambition to reduce emissions to 95% shortly after the Senedd became the first Parliament in the world to declare a Climate Emergency in 2019. It adds that on accepting the recommendation, the Welsh Government asked the CCC to look again at how Wales could reach Net Zero. Further advice by the CCC published in December 2020 showed that there was a credible route for Wales to achieve Net Zero. The plan states (page 10) *"we are proud that in March 2021 the Senedd agreed to set a legally binding net zero target. We are choosing to base our ambition on the evidence as we tackle the climate emergency, making Wales' fair contribution to the UK's obligations under the Paris Agreement"*.
- 4.2.12 The pathway to the 2050 Net Zero target is set through five yearly Carbon Budgets.

4.3 Future Wales: The National Plan 2040 (February 2021)

- 4.3.1 Future Wales (2021) is the Welsh Government's National Development Framework ('Future Wales') and is the highest tier of the development plan in Wales. It sets out (page 96) that proposals for large scale energy development are classed as DNSs and as set out in legislation *"applications for developments of national significance must be determined in accordance with Future Wales, which is the National Development Plan for Wales"*.
- 4.3.2 Future Wales is a framework for planning the change and development Wales will need over the next two decades. Future Wales supports and helps deliver the aims of the Economic Action Plan². It states (page 14) that Future Wales:
"Supports a low carbon economy and the decarbonisation of industry, and the growth of sustainable and renewable energy."
- 4.3.3 As the most recent expression of national planning policy and as the highest tier of the Development Plan, Future Wales has primacy in the planning policy hierarchy. The introduction to Future Wales (Chapter 1) sets out that it is a development plan with a strategy for addressing key national priorities through the planning system including sustaining and developing a vibrant economy and achieving decarbonisation and climate resilience, as well as developing strong ecosystems and improving the health and well being of communities.
- 4.3.4 Page 10 of Future Wales sets out that *"the specific purpose of Future Wales is to ensure the planning system at all levels is consistent with, and supports the delivery of, Welsh Government strategic aims and policies"*.
- 4.3.5 Future Wales (page 15) explains the structure of the Welsh planning system, referring to the three tiers of development plan which should be aligned and complement each other: namely, Future Wales, Strategic Development Plans (SDPs) and Local Development Plans (LDPs). It adds that LDPs must be in conformity with Future Wales and the SDPs for their respective area should they be in place. It adds that LDPs must be kept up to date to ensure that they and Future Wales work together effectively.

¹ Part 2 of the Environment (Wales) Act 2016 requires the Welsh Ministers to meet targets for reducing net Welsh emissions of greenhouse gases from Wales. Section 29 places a duty upon the Welsh Ministers to ensure that net Welsh emissions for the year 2050 are at least 100% lower than the baseline emission figures. The interim emission reduction targets are set out in the Climate Change (Carbon Budgets)(Wales) (Amendment) Regulations 2021.

² Welsh Government, Prosperity for All, Economic Action Plan (2017).

- 4.3.6 It is also explained that the content and policies of all tiers of the Development Plan are strongly influenced by Planning Policy Wales (PPW), which is the complete land use planning policy document for Wales (as referred to below) and a material consideration in the decision making process for DNS applications.
- 4.3.7 Future Wales does not contain statements on all land use planning issues as set out in PPW, however importantly, it does state that (page 15): *“deciding where to locate renewable energy generation technology is a spatial issue of such significance that national ambitions are unlikely to be achieved without national planning policies”*.
- 4.3.8 On page 15 of Future Wales, it is set out that PPW is not part of the development plan but as the principal statement of national planning policy *“it has substantial weight”* in the planning process. It adds that development plans must be consistent with national policy.
- 4.3.9 Future Wales was prepared with regard to a number of Welsh Government policy documents and statute including:
- The Well-being of Future Generations (Wales) Act 2015;
 - The Environment (Wales) Act 2016;
 - Prosperity for All: A Low Carbon Wales (March 2019); and
 - Policy Statement: Local Ownership of Energy Generation in Wales - Benefitting Wales Today and for Future Generations (February 2020).
- 4.3.10 Chapter 2 of Future Wales explains how the policy document has been informed by a range of challenges and opportunities and a key matter is climate change. It sets out (page 45) that climate projections *“show an increased chance of milder, wetter winters and hotter, drier summers, rising sea levels and an increase in the frequency and intensity of extreme weather events”*.
- 4.3.11 It states that climate change is an equality issue as it will disproportionately affect the most vulnerable communities and that:
- “it is vital that we reduce our emissions to protect our own well-being and to demonstrate our own global responsibility. Future Wales together with PPW will ensure the planning system focusses on delivering a de-carbonised and resilient Wales through the places we create, the energy we generate, the natural resources and materials we use and how we live and travel”*.
- 4.3.12 With regard to renewable energy, the plan notes (page 48) that:
- “Wales can become a world leader in renewable energy technologies. Our wind and tidal resources, our potential for solar generation, our support for both large and community scaled projects and our commitment to ensuring the planning system provides a strong lead for renewable energy development, mean we are well placed to support the renewable sector, attract new investment, and reduce carbon emissions.”*
- 4.3.13 Future Wales also has a focus on the need to protect natural resources and states (page 48) that there is a need *“to reverse biodiversity decline and assist nature recovery which is seen as being of imperative importance in its own right.”*

Future Wales: Development Management Policies

- 4.3.14 Policies 17 and 18 set out requirements in respect of renewable energy and are the policies against which DNS applications will be determined.
- 4.3.15 Policy 17 - ‘Renewable and Low Carbon Energy and Associated Infrastructure’ states:
- “The Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs.*
- In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales’ international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.*

In Pre-Assessed Areas for Wind Energy the Welsh Government has already modelled the likely impact on the landscape and has found them to be capable of accommodating development in an acceptable way. There is a presumption in favour of large-scale wind energy development (including repowering) in these areas, subject to the criteria in policy 18.

Applications for large-scale wind and solar will not be permitted in National Parks and Areas of Outstanding Natural Beauty and all proposals should demonstrate that they will not have an unacceptable adverse impact on the environment.

Proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental, and cultural improvements to local communities.

New strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities. The Welsh Government will work with stakeholders, including National Grid and Distribution Network Operators, to transition to a multi-vector grid network and reduce the barriers to the implementation of new grid infrastructure.”

4.3.16 Reference should be made to Figure 4.1: Planning Application Boundary & Pre-Assessed Area 10 Boundary.

4.3.17 Policy 18 - ‘Renewable and Low Carbon Energy Developments of National Significance’ provides the criteria for assessing large scale proposals for renewable and low carbon energy and it is required to be read together with Policy 17. It states:

“Proposals for renewable and low carbon energy projects (including repowering) qualifying as Developments of National Significance will be permitted subject to policy 17 and the following criteria:

1. Outside of the Pre-Assessed Areas for wind developments and everywhere for all other technologies, the proposal does not have an unacceptable adverse impact on the surrounding landscape (particularly on the setting of National Parks and Areas of Outstanding Natural Beauty);

2. There are no unacceptable adverse visual impacts on nearby communities and individual dwellings;

3. There are no adverse effects on the integrity of Internationally designated sites (including National Site Network sites and Ramsar sites) and the features for which they have been designated (unless there are no alternative solutions, Imperative Reasons of Overriding Public Interest (IROPI) and appropriate compensatory measures have been secured);

4. There are no unacceptable adverse impacts on national statutory designated sites for nature conservation (and the features for which they have been designated), protected habitats and species;

5. The proposal includes biodiversity enhancement measures to provide a net benefit for biodiversity;

6. There are no unacceptable adverse impacts on statutorily protected built heritage assets;

7. There are no unacceptable adverse impacts by way of shadow flicker, noise, reflected light, air quality or electromagnetic disturbance;

8. There are no unacceptable impacts on the operations of defence facilities and operations (including aviation and radar) or the Mid Wales Low Flying Tactical Training Area (TTA-7T);

9. There are no unacceptable adverse impacts on the transport network through the transportation of components or source fuels during its construction and/or ongoing operation;

10. The proposal includes consideration of the materials needed or generated by the development to ensure the sustainable use and management of resources;

11. There are acceptable provisions relating to the decommissioning of the development at the end of its lifetime, including the removal of infrastructure and effective restoration. The cumulative impacts of existing and consented renewable energy schemes should also be considered.”

- 4.3.18 The supporting text to Policies 17 and 18 (page 96) sets out that Wales is abundant in opportunities to generate renewable energy: *“and the Welsh Government is committed to maximising this potential. Generating renewable energy is a key part of our commitment to decarbonisation and tackling the climate emergency”*.
- 4.3.19 Reference is then made to a number of targets for the generation of renewable energy as follows:
- For 70% of electricity consumption to be generated from renewable energy by 2030;
 - For one gigawatt of renewable energy capacity to be locally owned by 2030; and
 - For renewable energy projects to have at least an element of local ownership from 2020.
- 4.3.20 It adds that Policies 17 and 18 contain strategic spatial and criteria-based policy provisions which are required to be considered together in the determination of applications, along with detailed advice on assessing benefits and impacts in PPW. It should be noted that these targets have recently been subject to consultation by the Welsh Government.
- 4.3.21 The supporting text with regard to Policy 17 also adds that *“proposals should ensure that there is no significant unacceptable detrimental impact on the surrounding natural environment and local communities and that development delivers positive social, environmental, cultural and economic benefits”*.
- 4.3.22 On page 97, the supporting text to the policies sets out that the Government recognises that there are landscapes across Wales *“whose intrinsic value should be protected from inappropriate development. Sites in National Parks and Areas of Outstanding Natural Beauty are considered unsuitable for large scale wind and solar”*. It adds, however, that outside of these areas *“a positive policy framework exists”*.
- 4.3.23 Within the PAAs for wind energy (map on page 94 of Future Wales), it adds that the Welsh Government *“has undertaken an assessment to identify these areas to provide certainty where, in principle, developments would be acceptable. In these areas there is a presumption in favour of large scale onshore wind energy development and the associated landscape change subject to the criteria in Policy 18”*. It adds that outside of the PAAs *“a positive policy framework still exists, subject to Policy 18”*.
- 4.3.24 The supporting text adds that the Welsh Government will use its policy levers to assist in the delivery of renewable energy projects in these areas by coordinating strategic action to build the case for new or reinforced grid infrastructure where necessary and that they will work with relevant stakeholders *“to help unlock the renewable energy potential of these areas and the economic, social, cultural and environmental benefits they can bring to communities”*.
- 4.3.25 The document adds that large scale renewable and low carbon energy schemes can generate direct social and economic benefit to local communities and that developers should explore *“how infrastructure improvements associated with a development (including transport infrastructure and communication systems) may be utilised by the host communities to bring additional, non-planning related benefits. Although not a planning consideration, local ownership of projects, in whole or in part, can ensure these benefits are accrued over the long term”*.
- 4.3.26 Future Wales states (page 97) that irrespective of location or scale, *“the design and micro siting of proposals must seek to minimise the landscape and visual impact, particularly those in close proximity to homes and tourism receptors. Both within and outside Pre Assessed Areas, communities should be protected from significant cumulative impacts to avoid unacceptable situations whereby, for example, smaller settlements could be potentially surrounded by large wind schemes”*.

4.4 Planning Policy Wales, Edition 12 (February 2024)

- 4.4.1 PPW 12 was published in February 2024. It sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs), Welsh Government Circulars, and policy clarification letters, which together with PPW provide the overall national planning policy framework for Wales.
- 4.4.2 Its key principles (page 17) are:
- Growing our economy in a sustainable manner;
 - Making best use of resources;
 - Facilitating accessible and healthy environments;
 - Creating and sustaining communities; and
 - Maximising environmental protection and limiting environmental impact.
- 4.4.3 PPW addresses energy at section 5.7. Paragraph 5.7.1 states:
- “The Welsh Government’s highest priority is to reduce demand wherever possible and affordable. Low carbon electricity must become the main source of energy in Wales. Renewable electricity will be used to provide both heating and transport in addition to power.”*
- 4.4.4 Paragraph 5.7.6 requires the planning system to secure an appropriate energy mix, which maximises economic and social benefits and minimises environmental and social impacts. Paragraph 5.7.7 continues that:
- “The benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, is of paramount importance... The planning system should... maximise renewable and low carbon energy generation.”*
- 4.4.5 With regard to renewable energy targets, PPW also notes that the Welsh Government has set targets for the generation of renewable energy.
- 4.4.6 Paragraph 5.9.1 states that *“Local authorities should facilitate all forms of renewable and low carbon energy development and should seek cross-department co-operation to achieve this. In doing so, planning authorities should seek to ensure their area’s full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.”*
- 4.4.7 The target is for Welsh renewables to generate electricity equal to 70% of Wales’s consumption by 2030. It should be noted that the Welsh Government in 2023 increased this to 100% of consumption by 2035.
- 4.4.8 PPW notes at paragraph 5.9.16 that for large scale wind energy development that Wales has an abundant wind resource, and that wind energy forms a key part of meeting the Welsh Government’s vision for future renewable energy production.
- 4.4.9 Paragraph 5.9.20 places a requirement on planning authorities to identify opportunities to:
- “avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development”. This should include consideration of the following:*
- “The need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;*
- *The impact on the natural and historic environment;*
 - *Cumulative impact;*
 - *The capacity of, and effects on the transportation network;*
 - *Grid connection issues where renewable (electricity) energy developments are proposed; and*

- *The impacts of climate change on the location, design, build and operation of renewable and low carbon energy development.*

In doing so, consider whether measures to adapt to climate change impacts give rise to additional impacts.”

Paragraph 5.9.21 follows with a requirement for developers to “*wherever possible, consider how to avoid, or otherwise minimise, adverse impacts through careful consideration of location, scale, design and other measures.*”

- 4.4.10 The Welsh Government issued a letter to all Heads of Planning on 11 October 2023 with regard to changes to Chapter 6 of PPW 11. The proposed changes were consulted on between 09 March and 31 May 2023 and covered matters relating to green infrastructure, net benefit for biodiversity, the protection to be afforded to Sites of Special Scientific Interest (SSSI) and trees and woodlands.
- 4.4.11 The changes to Chapter 6 were included in PPW 12. The principal changes to policy framework can be summarised as follows:
- Green Infrastructure - there is stronger emphasis on taking a proactive approach to green infrastructure, covering cross boundary considerations, identifying key outputs of green infrastructure assessments, the submission of proportionate Green Infrastructure Statements with planning applications and signposting building with nature standards. There is a requirement to submit Green Infrastructure Statements with all planning applications.
 - Net Benefit for Biodiversity and the Stepwise Approach - the revisions provide clarity on securing net benefit for biodiversity through the application of the stepwise approach, including the acknowledgement of off-site compensation measures as a last resort and the need to consider enhancement and long-term management at each step. The use of the Green Infrastructure Statement as a means of demonstrating the stepwise approach is made explicit. The policy also recognises the importance of strategic collaboration to identify and capture larger scale opportunities for securing a net benefit for biodiversity.
 - Protection for SSSIs - the policy changes introduce a strengthened approach to the protection of SSSIs, with increased clarity on the position for site management and exemptions for minor development.
 - Trees and Woodland - the policy changes introduced closer alignment with the stepwise approach, along with promoting new planting as part of development, based on the principle of ‘the right tree in the right place’.
- 4.4.12 Section 6.4 of PPW addresses ‘biodiversity and ecological networks.’ It makes reference to the Environment (Wales) Act 2016, which it states “... introduced an enhanced biodiversity and resilience of ecosystems duty (Section 6 duty).”
- 4.4.13 The duty is referenced at page 145 of PPW and at paragraph 6.4.5 it states:
- “Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non-native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems.”*
- 4.4.14 It adds that a net benefit for biodiversity is the concept that: “*Development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long term, measurable and demonstrable benefit, primarily or immediately adjacent to the site.*”
- 4.4.15 PPW also sets out what is termed the ‘Step-Wise approach’ which it states is a means of demonstrating the steps which have been taken towards securing a net benefit for

biodiversity. It makes it clear that in doing so, account must be taken of the attributes known as the DECCA3 Framework.

4.4.16 Paragraph 6.4.8 states that the Step-Wise approach “... will help guide decision makers in securing a net benefit for biodiversity and the onus is on developers to bring forward proposals in a way which will achieve a net benefit for biodiversity demonstrating how they have used the Step-Wise approach.”

4.4.17 PPW explains the Step-Wise approach as an iterative approach and this is illustrated in Figure 12 in PPW. PPW states at paragraph 6.4.12 that having worked through the stages of the Step-Wise approach “... and providing evidence in the Green Infrastructure Statement that the Step-Wise approach has been followed, a scheme of enhancements must be provided to ensure a net benefit for biodiversity.”

4.4.18 At paragraph 6.4.15, with further reference to the Step-Wise approach, PPW states that proposals in statutory designated sites, as a matter of principle, would be unacceptable. It adds that:

“This principle also extends to those sites containing protected species and habitats which are irreplaceable”.

4.4.19 PPW addresses designated sites from paragraph 6.4.18 and at paragraph 6.4.31 addresses protection in relation to non-statutory designations.

4.4.20 With regard to non-statutory designations, PPW states at paragraph 6.4.33 that:

“Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience. Where harm is unavoidable, it should be minimised by mitigation measures and offset as far as possible by compensation measures designed to ensure there is no reduction in the overall conservation value of the area or feature, and a net benefit for biodiversity secured.”

4.5 Local Development Plan: Torfaen County Borough Council

4.5.1 The extant Torfaen Local Development Plan (‘TLDP’) was adopted in December 2013 and provides a framework for local decision-making by outlining the TCBC’s land use policies and proposals to control development in the county borough up to 2021 and beyond. The TLDP indicates where development will be encouraged and where it will be resisted.

4.5.2 Following a statutory review of the TLDP, in 2018 TCBC approved the commencement of a full revision of the TLDP. As such, a replacement plan was started and was intended to cover the period of 2022-2037. The first round of consultation on the Torfaen Replacement Local Development Plan (‘TRLDP’) closed in April 2021 and a ‘Deposit’ version of the TRLDP was anticipated later in 2023. However, the replacement TLDP has now been formally withdrawn. Therefore at the time of writing, there is no emerging or replacement LDP material to the assessment of a planning application, nor have draft policies been prepared which warrant further consideration within this review.

4.5.3 Relevant policies from the adopted TLDP are set out below:

S2 Sustainable Development

“Development proposals will need to demonstrate they have taken account of the following principles and where relevant that they: -

- a) Contribute to the regeneration of existing communities;*

³ The DECCA Framework is referenced in detail on pages 146 and 147 of PPW with reference to Diversity, Extent, Condition, Connectivity and Adaptability to Change.

- b) *Meet Sustainable transportation and infrastructure priorities and promotion of a sustainable transport hierarchy, including reducing the reliance on the private motor car and encouraging the use of more sustainable modes of transport;*
- c) *Conserve and enhance the natural and built environment;*
- d) *Promote the efficient use of land;*
- e) *Maximise the efficient use of existing community infrastructure;*
- f) *Utilise Sustainable construction techniques;*
- g) *Promote sustainable Economic and employment growth; and*
- h) *Are located within the Urban Boundary unless it is an acceptable development in the countryside.”*

S3 Climate Change

“Development proposals shall seek to mitigate the causes of further climate change and adapt to the current and future effects of climate change; and will be supported where they demonstrate consideration of the following hierarchy of criteria (where appropriate):

- a) *Ensuring that locational decisions are sustainable and avoid areas susceptible to flooding unless justified by national planning policy;*
- b) *Achieving Sustainable Design to ensure residual energy requirements are minimised through:*
 - i. *Supporting climate responsive development through location, orientation, density, layout, built form, materials and landscaping;*
 - ii. *Reducing surface water run-off and flood risk through the use of Sustainable Urban Drainage Schemes (SUDS) unless it is shown that these measures are uneconomic or impractical;*
 - iii. *Promoting water efficiency by reducing the demand for water; and*
 - iv. *Exploring opportunities to maintain habitat connectivity through the provision of green infrastructure in design;*
- c) *Achieving energy efficiency in developments and in line with national standards where required; and*
- d) *Utilising renewable and low or zero carbon energy technologies to generate heat and electricity requirements which includes heating, cooling and power networks powered by renewable energy sources, or that connect to existing Combined Heat and Power or communal / district heating networks.”*

S7 Conservation of the Natural and Historic Environment

“Development proposals should seek to ensure the conservation and enhancement of the Natural, Built & Historic Environment of Torfaen, in particular:

- a) *Biodiversity resources;*
- b) *Geodiversity resources;*
- c) *Water environment;*
- d) *Landscape setting;*
- e) *Character of the built environment; and Historic assets.”*

BW1 General Policy - Development Proposals

“All development proposals will be considered favourably providing they comply with the following criteria where they are applicable: -

- A. *Amenity and Design*
 - i. *The proposal does not constitute over development of the site in terms of the scale, density, massing and form of the development;*
 - ii. *The design and visual appearance of the proposal takes account of the local context in terms of siting, appearance, elevation treatment, materials and detailing;*

- iii. *The proposal respects the urban fabric of the area in terms of pattern of development, the space around and between buildings and the setting of the site;*
- iv. *The proposal includes a landscaping and planting scheme, which enhances the site and the wider context including green infrastructure and biodiversity networks and allows it to adapt to climate change;*
- v. *For extensions to buildings, the proposals complement and enhance the form, siting, materials, details and character of the original building, its curtilage and the wider area;*
- vi. *The proposal does not have an unacceptable impact upon the amenities of the occupiers of adjoining or neighbouring properties.*

B. Natural Environment

- i. *The proposal does not result in unacceptable adverse effects in respect of land contamination, instability or subsidence; air, heat, noise or light pollution; landfill gas; water pollution; or flooding, from or to the proposal;*
- ii. *The proposal does not result in significant adverse effects on the integrity of a European designated site or its designated features in the context of the site's conservation objectives;*
- iii. *The proposal does not result in a significant adverse effect on a nationally designated site;*
- iv. *The proposal contributes to the conservation and/ or enhancement of the strategic biodiversity network of Torfaen and does not result in a significant adverse effect on the network;*
- v. *The proposal does not result in the unacceptable loss or harm to features of landscape importance including trees and woodland that have natural heritage or amenity value; and*
- vi. *The proposal does not have an unacceptable adverse impact upon the water environment or pose an unacceptable risk to the quality and quantity of controlled waters (including groundwater and surface water), and where practicable and reasonable improves water quality.*

C. Built Environment

- i. *The proposal contributes to the preservation and enhancement of the historic built environment wherever possible (including heritage assets and their settings);*
- ii. *The proposal does not detrimentally affect the character of the immediate and surrounding built environment; and*
- iii. *Where practicable, existing construction materials on the site are re-used or recycled.*

D. Utilities Provision

- i. *The proposal does not prejudice the existing or proposed level of service provision; and*
- ii. *In areas served by the public foul sewer, planning permission will only be granted where the development can be served by the existing public foul sewerage system or, if the system is inadequate, the statutory undertakers and/ or the developers will ensure satisfactory improvements are provided prior to the development becoming operational.*

E. Design and Transport

- i. *The proposal should be designed in accordance with the relevant national and local highway design guidance and where appropriate, the Council's adopted parking / cycling provision standards;*
- ii. *The proposal ensures that new access roads within the development layout connect the development to a range of services and facilities and are designed to promote the interests of pedestrians, cyclists and public transport before the private car;*
- iii. *Where access onto an existing highway is required, the proposal takes account of restrictions relevant to the class of road as designated in the road hierarchy,*

- ensuring movements and speeds are controlled through appropriate design, in order to ensure highway safety and protect amenity;
- iv. The road network is capable of safely and effectively sustaining the scale and nature of additional traffic generated by the proposal and allows for adequate servicing throughout the proposal, with a Transport Assessment being provided where appropriate;
 - v. It has been demonstrated that where a significant number of freight trips will be generated, the least environmentally damaging transport mode and route will be utilised, wherever possible; and
 - vi. The proposal is informed by a Green Travel Plan where appropriate.”

M1 Minerals Safeguarding

“Development proposals will not be permitted which would permanently sterilise important mineral resources within the Aggregate Safeguarding Areas or Coal Safeguarding Areas identified on the Proposals Map, unless there is an overriding need for the Proposed Development and: -

- a) the Mineral resource is recovered before the Proposed Development commences; or
- b) the developer has satisfactorily demonstrated that the extraction of the mineral is impracticable, uneconomic or environmentally unacceptable.”

C2 Special Landscape Areas (SLAs)

“Special Landscape Areas are identified at the following locations: -

- C2/1 - Llandegfedd Reservoir;
- C2/2 - South Eastern Lowlands;
- C2/3 - Southern Lowlands;
- C2/4 - South West Uplands;
- C2/5 - Blaenavon Heritage Landscape;
- C2/6 - Eastern Uplands;
- C2/7 - Afon Lwyd Valley; and
- C2/8 - Western Uplands.

In order to ensure the continued protection and enhancement of the defined SLA’s development proposals that could impact on these designations will be expected to conform to high standards of design and environmental protection which is appropriate to the LANDMAP character of the area.”

BG1 Locally Designated Sites for Biodiversity and Geodiversity

“Development proposals will not be permitted where they would cause significant adverse effects to local nature conservation designated sites (including the features of a Site of Importance for Nature Conservation, Local Nature Reserves, or Regionally Important Geological Sites) unless it can be demonstrated that:

- a) The development could not reasonably be located elsewhere and the benefits of the Proposed Development justifiably outweigh the nature conservation or geological value of the site; and
- b) Adequate mitigatory and / or compensatory provision is made proportionate to; or an enhancement to the value of the ecological resources or geological site lost.”

HE1 Buildings and Structures of Local Importance

“Development proposals affecting buildings and

structures of local importance which make a valuable contribution to the character and interest of the local area will not be permitted where the distinctive appearance, architectural integrity or their settings would be significantly adversely affected, unless the benefits of the proposal would outweigh such adverse effects.”

4.6 The Local Development Plan: Caerphilly County Borough Council

- 4.6.1 The extant LDP for CCBC (‘CCLDP’) was adopted in November 2010 and identifies where new developments (for example housing or employment facilities) will be located. The CCLDP provides a framework for local decision-making by setting out CCBC’s land use policies and proposals to control development in the county borough up to 2021. The CCLDP provides the basis by which planning applications will be determined consistently and appropriately.
- 4.6.2 A need to fully revise the CCLDP was identified for CCBC in 2020. The Revised CCLDP (‘RCCLDP’) will cover the period up to 2035, however, unforeseen delays mean that its adoption is not anticipated until early 2025. At the time of writing, the RCCLDP is not at a stage where it would be material in the assessment of a planning application, nor have draft policies been prepared which warrant further consideration within this review.
- 4.6.3 Relevant policies from the CCLDP are as follows:

SP3 - Development in the Southern Connections Corridor

“Development proposals in the Southern Connections Corridor will promote sustainable development that:

- A. Uses previously developed land within settlement limits*
- B. Reduces car borne trips by promoting more sustainable modes of travel*
- C. Makes the most efficient use of the existing infrastructure*
- D. Has regard to the social and economic function of the area and Protects the natural heritage from inappropriate forms of development”.*

SP6 - Place Making

“Development proposals should contribute to creating sustainable places by having full regard to the context of the local, natural, historic and built environment and its special features through:

- A. An appropriate mix of uses that reflect the role and function of settlements*
 - B. A high standard of design that reinforces attractive qualities of local distinctiveness*
 - C. Design in accordance with best practice in terms of designing out crime*
 - D. A location and layout that reflects sustainable transport and accessibility principles and provides full, easy and safe access for all*
 - E. The incorporation of resource efficiency and passive solar gain through layout, materials, construction techniques, water conservation, and where appropriate the use of sustainable drainage systems*
 - F. The efficient use of land, including higher densities where development is close to key transport nodes*
 - G. The incorporation and enhancement of existing natural heritage features*
- The incorporation of mitigation measures that improve and maintain air quality”.*

SP8 - Minerals Safeguarding

“The Council will contribute to the regional demand for a continuous supply of minerals by:

- A. Safeguarding known resources of coal, sand and gravel and hard rock.*

- B. *Maintaining a minimum 10-year land bank of permitted aggregate reserves in line with national guidance”.*

SP10 - Conservation of Natural Heritage

“The Council will protect, conserve, enhance and manage the natural heritage of the County Borough in the consideration of all development proposals within both the rural and built environment”.

CW1 - Sustainable Transport, Accessibility and Social Inclusion

“Development proposals that are likely to generate a significant number of trips will only be permitted provided:

- A. *Walking and cycling are modes of travel which have been actively encouraged for short trips to and within the development and to nearby services and facilities, including public transport nodes, through the provision of appropriate infrastructure.*
- B. *Provision has been made for ease of cycling, including secure bike storage and cyclist facilities.*
- C. *It has been demonstrated that where a significant number of freight trips will be generated, the least environmentally damaging route will be utilised .*
- D. *The use of Green Travel Plans has been encouraged, where appropriate”.*

CW2 - Amenity

“Development proposals must have regard for all relevant material planning considerations in order to satisfy the following requirements:

- A. *There is no unacceptable impact on the amenity of adjacent properties or land.*
- B. *The proposal would not result in over-development of the site and / or its surroundings.*
- C. *The proposed use is compatible with surrounding land-uses and would not constrain the development of neighbouring sites for their identified land-use.*
- D. *Where applicable, the viability of existing neighbouring land uses would not be compromised by virtue of their potential impact upon the amenity of proposed new residential development”.*

CW3 - Design Considerations - Highways

“Development proposals must satisfy the following highways requirements:

- A. *The proposal has regard for the safe, effective, and efficient use of the transportation network*
- B. *The proposal ensures that new access roads within development proposals are designed to a standard that:*
 - i. *Promotes the interests of pedestrians, cyclists and public transport before that of the private car, and*
 - ii. *Safely and effectively accommodates the scale and nature of traffic, which those roads are intended to serve*
- C. *Parking, appropriate servicing and operational space have been provided in accordance with the CSS Wales Parking Standards 2008*
- D. *Where access onto a highway is required the proposal takes account of the restrictions relevant to the class of road as designated in the road hierarchy ensuring movements and speeds are controlled through appropriate design, in order to ensure highway safety and amenity”.*

CW4 - Natural Heritage Protection

“Development proposals that affect locally designated natural heritage features, will only be permitted:

- A. Where they conserve and where appropriate enhance the distinctive or characteristic features of the Special Landscape Area (SLA) or Visually Important Local Landscape (VILL).*
- B. Within, or in close proximity to sites designated as Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), Regionally Important Geological Sites (RIGS), Green Corridors, or Local Priority Habitats and Species, where proposals either:
 - i. Conserve and where appropriate enhance the ecological or geological importance of the designation, or*
 - ii. Are such that the need for the development outweighs the ecological importance of the site, and where harm is minimised by mitigation measures and offset as far as practicable by compensation measures designed to ensure that there is no reduction in the overall value of the area or feature”.**

CW5 - Protection of the Water Environment

“Development proposals will only be permitted where:

- A. They do not have an unacceptable adverse impact upon the water environment, and*
- B. Where they would not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water)”.*

CW6 - Trees, Woodland and Hedgerow Protection

“Development proposals on sites containing trees, woodlands and hedgerows, or which are bordered by one of more such trees or hedgerows, will only be permitted provided that:

- A. Where arboricultural surveys are required, they are submitted and approved, including any mitigation, compensation or management requirements, as part of the planning application.*
- B. Root systems will be retained and adequately protected for the duration of all development activity on site.*
- C. Development proposals have made all reasonable efforts to retain, protect and integrate trees, woodlands or hedgerows within the development site.*
- D. Where trees, woodlands or hedgerows are removed, suitable replacements are provided where appropriate”.*

CW15 - General Locational Constraints

“Development proposals will be considered against the following criteria, where they apply:

- A. Development proposals will not be permitted if they prejudice the implementation of wider comprehensive redevelopment or constrain the development of any adjacent site for its allocated land-use*
- B. Within settlement boundaries proposals for all types of development accord with the role and function of the settlement within which they are located, and*
- C. Outside settlement boundaries proposals will not be permitted unless the proposed development is either:
 - i. Associated with either agriculture, forestry or the winning and working of minerals;
or*
 - ii. For the conversion, rehabilitation or replacement of rural buildings and dwellings;
or**

- iii. *For recreation, leisure and tourism proposals that are suitable in a countryside location; or*
- iv. *Associated with the provision of public utilities, infrastructure and waste management facilities that cannot reasonably be located elsewhere or Associated with the reclamation / treatment of derelict or contaminated land”.*

CW22 - Locational Constraints - Minerals

“Development proposals which may impact on minerals safeguarding areas will be considered against the following requirements, as applicable:

- A. *Proposals for permanent development uses within identified mineral safeguarding areas will not be approved unless:*
 - i. *The applicant can demonstrate that the mineral is no longer of any value or potential value; or*
 - ii. *The mineral can be extracted satisfactorily prior to the development taking place; or*
 - iii. *There is an overriding need for the development; or*
 - iv. *The development comprises infill development within a built up area or householder development or an extension to an existing building;*
 - v. *Proposals for development uses of a temporary nature within identified mineral safeguarding areas will not be approved unless they can be completed and the site restored to a condition that does not inhibit mineral extraction within the timescale that the mineral is likely to be needed”.*

NH2 - Visually Important Local Landscapes

“Visually Important Local Landscapes are identified and will be protected at the following locations:

NH2.3 Abercarn

NH2.4 Rudry”.

NH3 - Sites of Importance for Nature Conservation (SINCs)

“Sites of Importance for Nature Conservation will protected in the following locations:

NH 3.113 Mynydd Maen, East of Newbridge;

NH 3.138 Twmbarlwm, North of Risca”.

4.7 The Brecon Beacons (Bannau Brycheiniog) National Park: Management Plan

- 4.7.1 The Bannau Brycheiniog National Park (BBNP) Authority’s statutory Management Plan for the period 2023 to 2028 is a relevant consideration. The Management Plan sets out objectives in relation to the future of the National Park and covers its whole geographic area. The National Park Authority is required by Section 66(1) of the 1995 Environment Act to prepare and keep under review a Management Plan for their area. The Management Plan sets out how the purposes and duty of the National Park (the statutory objectives) will be met within the geographic area of the plan.
- 4.7.2 The plan has an important link with the Well-Being of Future Generations Act (2015). The Well-Being of Future Generations (Wales) Act 2015 ensures that policy documents such as the Park’s Management Plan are produced collaboratively and integrate across a range of public service providers. The Management Plans forms the Statutory Well-Being Plan for BBNP. The plan sets out five interconnected missions which relate to:

- Climate - Reach net zero greenhouse gas emissions across the Bannau Brycheiniog National Park by 2035;
- Water - Clean, safe, resilient, plentiful water resources and water environment by 2030;
- Nature - Nature positive Bannau Brycheiniog National Park by 2030;
- People - Living, working, visiting safely, equitably and sustainably; and
- Place - Beautiful, thriving and sustainable places, celebrated for their natural and cultural heritage, now and forever.

4.7.3 The plan sets out the purposes and duty of the National Park, namely;

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park; and
- To promote opportunities for the public understanding and enjoyment of the special qualities of the National Park; and
- To seek to foster economic and social well-being of local communities within the National Park.

4.7.4 The potential effects of the proposed development on the special qualities of the BBNP are set out in the landscape and visual chapter of this ES.

4.8 Technical Advice Notes

4.8.1 A series of Technical Advice Notes (TANs) supplement PPW. Those of relevance to the application are:

- TAN 5: Nature Conservation and Planning (2009);
- TAN 11: Noise (1997);
- TAN 12: Design (2014);
- TAN 15: Development and Flood Risk (2023);
- TAN 18: Transport (2007); and
- TAN 24: The Historic Environment.

4.9 Conclusion

4.9.1 This chapter has set out the legislative background, a summary of relevant statutory provisions, the national energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the proposed wind farm. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA in order to ensure that it provides the appropriate information for the consideration of the application for consent.

4.9.2 As noted, the policy appraisal for the proposed wind farm is contained in a separate Planning Statement.

4.10 References

The Planning (Wales) Act (2015)
The Town and Country Planning Act 1990
The Planning and Compulsory Purchase Act 2004
The Wellbeing of Future Generations (Wales) Act 2015
The Environment (Wales) Act 2016
The Welsh Government, Prosperity for All: A Low Carbon Wales (2019)
The Welsh Government, Net Zero Wales Carbon Budget 2 (2021-2025) (October 2021)
The Welsh Government, Future Wales: The National Plan 2040 (February 2021)
The Welsh Government, Planning Policy Wales, Edition 12 (February 2024)
Torfaen County Borough Council, Local Development Plan (December 2013)
Caerphilly County Borough Council, Local Development Plan (November 2010)