

## 6 Legislation and Planning Policy

### 6.1 Introduction

1 This chapter of the Environmental Statement (ES) sets out the legislation and planning policy considerations for the Onshore Works, which are of relevance in considering predicted significant effects. This chapter includes references, where appropriate, to national, regional and local planning policy and guidance frameworks and identifies other relevant material considerations. National planning policies are also introduced in **Chapter 2: Climate Change and Need for the Project**.

2 It is important to note that this chapter does not include an assessment of the project's compliance with the policy framework. This would inevitably involve a degree of subjective interpretation which is contrary to good practice advice on ES preparation. Further details of the planning decision-making framework, and extent to which the Development satisfies this framework, are included within the Planning Statement. The Planning Statement has been submitted as part of the application package, but does not form part of the ES.

### 6.2 Legislative Background

3 An application for planning permission is being made to the planning authority, East Lothian Council, under The Town and Country Planning (Scotland) Act 1997 (as amended) (hereafter referred to as 'the Act').

4 The Onshore Works project is classified as a 'Major Development' under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 on the basis that the area of the development boundary exceeds two hectares. Therefore, formal Pre-Application Consultation is required under section 35A of the Act and a Pre-Application Consultation (PAC) Report also accompanies the application. Further details on the pre-application consultation can be found in **Chapter 7: Engagement and Commitments**.

5 European Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (the 'EIA Directive') as amended by Directives 97/11/EC, 2003/35/EC and 2009/31/EC, provides that European Union authorities giving consent for certain types of project must take into consideration any significant environmental or socioeconomic impacts the proposed project may cause. The transposing regulations relevant to the Onshore Works for Neart na Gaoithe are the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (the 'EIA Regulations'). This ES will accompany the application made under the Act and has been compiled in accordance with the EIA Regulations.

6 In addition to the requirement to undertake an EIA, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive') and the transposing Conservation (Natural Habitats, &c.) Regulations 1994 (the 'Habitats Regulations') (as amended) require development projects to consider the impacts of potential developments on sites and species of international nature conservation importance. Where any plan or project is likely to significantly affect features of a nature conservation site which has been designated under the Habitats Regulations, a Habitats Regulations Appraisal (HRA) is required and the competent authority must undertake an appropriate assessment of the potential impacts of the project against the site's conservation objectives. In addition, the Habitats Regulations provide protection for the animals listed in Schedule 2 and the plants listed in Schedule 4. The Habitats Regulations also make provision for licensing certain activities which may harm species protected under the Regulations.

7 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (the 'Birds Directive') aims to maintain the populations of wild bird species across their natural range and allows for the designations of Special Protection Areas (SPAs) for rare and vulnerable species listed in Annex I and regularly occurring migratory birds. The Birds Directive is transposed into UK law by the Habitats Regulations, the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004.

8 The Wildlife and Countryside Act 1981 (as amended) provides protection for wild birds, certain wild animals and certain wild plant species by making it an offence to kill, injure, or take any of the species listed in the Act. The Act also provides for the designation of Sites of Special Scientific Interest (SSSI) and National Nature Reserves (NNR) in the UK.

9 The Nature Conservation (Scotland) Act 2004 (as amended) promotes the conservation of biodiversity and increases the protection for SSSIs. The Act also strengthens wildlife enforcement legislation such as the Wildlife and Countryside Act 1981.

10 The Wildlife and Natural Environment (Scotland) Act 2011 amends the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004 and provides further protection for certain species. In addition, it improves the administration of licensing under the Wildlife and Countryside Act 1981 and updates legislation in relation to SSSIs.

### 6.3 Development Plan Framework

11 Section 37 (2) of the Act requires that decisions on planning applications are made in accordance with the Development Plan, so far as material to the application, and any other material considerations. This is interpreted in Paragraph 25 of Scottish Planning Policy (SPP) (February 2010) as requiring decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.

12 The Development lies wholly within the East Lothian administrative area. The adopted Development Plan comprises:

- Edinburgh and Lothians Structure Plan 2015, adopted in 2004; and
- East Lothian Local Plan 2008, adopted in 2008.

### 6.4 Review of Development Plan Policy

#### 6.4.1 Introduction

13 The relevant development plan policies against which the application will be assessed are detailed below. Specific considerations of relevance to the Onshore Works are also identified. To aid understanding, these are arranged by theme, reflecting chapter divisions within the ES. The full wording of certain policies is provided where this provides clarity to the text.

14 The Edinburgh and Lothians Structure Plan was produced by the City of Edinburgh Council, East Lothian Council, Midlothian Council and West Lothian Council. It provides a broad framework for the Local Plans which contain more site-specific policies.

#### 6.4.2 Renewable Energy

##### 6.4.2.1 The Edinburgh and Lothians Structure Plan 2015

15 Policy **ENV 6: Renewable Energy** supports the development of renewable energy resources where they can be achieved in an environmentally acceptable manner.

##### 6.4.2.2 The East Lothian Local Plan 2008

16 **Policy NRG4: Wind Power Sites – Restoration** states that "prior to the determination of a planning application the planning authority will require wind turbine developers and landowners to enter into a legal agreement to secure removal of the turbines and associated infrastructure and restoration of the site once electricity generation has ceased."

#### 6.4.3 Natural Heritage

17 This section provides reference to policies in the Local and Structure Plan related to natural heritage. It should be highlighted that these policies have been taken into consideration within this chapter for completeness, however there are no designated sites of interest to natural heritage within the application boundary of the Onshore Works. There is one Listed Wildlife Site (Thornton Burn) that falls within the application boundary and several areas of ancient woodland. Potential effects on these areas in particular, are discussed in **Chapter 8: Terrestrial and Inter-tidal Ecology and Ornithology**.

#### 6.4.3.1 The Edinburgh and Lothians Structure Plan 2015

18 Policy **ENV 1 A: International Natural Heritage Designations** protects the conservation interests of Natura 2000 sites from adverse effects unless it can be proven that there is no alternative solution. If adverse effects are likely, it must be demonstrated that there are imperative reasons of over-riding public interest, including those of a social or economic nature.

19 Policy **ENV 1 B: National Natural Heritage Designations** prevents development which could affect national designations, including Sites of Special Scientific Interest (SSSI) not designated as international sites. Development would only be permitted where it can be demonstrated that:

*“the objectives of designation and overall integrity of the site will not be compromised; or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.”*

20 Designated natural heritage sites, protected priority habitat or species or other important non-statutory locations noted under Policy **ENV 1 F: Environmental or Biodiversity Assessments**, will require an appropriate level of environmental or biodiversity assessment. If permission for development is granted, mitigation measures and enhancement measures (where appropriate) must be included in proposals to reduce any adverse impact and/or to provide for sustainable habitat replacement.

#### 6.4.3.2 The East Lothian Local Plan 2008

21 Policy **NH1a: Internationally Protected Areas** does not permit development which would have an adverse effect on the conservation interest of Natura 2000 sites (including proposed SPAs) or Special Areas of Conservation (SACs) or Ramsar sites. Development would only be considered in the following circumstances:

- There are no alternative solutions; and
- There are imperative reasons of over-riding public interest, including those of a social or economic nature.

22 The policy further states that *“where a priority habitat or species (as defined in Article 1 of the Habitats Directive) would be affected, prior consultation with the European Commission is required unless the development is necessary for public health or safety reasons.”*

23 Policy **NH1b: Sites of Special Scientific Interest** states that development that is likely to affect a SSSI will only be permitted where there are no alternative solutions and the proposal can demonstrate:

- The objectives of designation and overall integrity of the site will not be compromised; or
- Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits of national importance.

24 Policy **NH2: Wildlife and Geological Areas** protects sites designated for their natural heritage value. Proposals for any development that could have potentially damaging effects on such areas should include detail of appropriate mitigation measures to safeguard the features of the designation.

25 Policy **NH3: Important Local Biodiversity Sites** protects the following sites against harm as a result of development:

- Scottish Wildlife Trust (SWT) Site;
- a Listed Wildlife Site (shown on the SWT sites map);
- Regionally Important Geological or Geomorphological Site;
- a site containing a Priority Habitat or a significant population of Priority Species (as listed in the East Lothian Biodiversity Action Plan).

26 Development that may affect any of the sites listed would only be allowed where the public benefits outweigh any harm to the natural heritage interests and where no suitable alternative sites are available. As noted previously, there is one SWT Listed Wildlife Site within the development boundary. Others close by are identified in Table 8.5 in **Chapter 8: Terrestrial and Inter-tidal Ecology and Ornithology** and shown on **Figure 8.2**.

27 Policy **NH5: Protected Trees** states that *“the uprooting, pruning or felling of any tree which is subject to a Tree Preservation Order or is within a Conservation Area will only be permitted where one or more of the following circumstances apply;*

- *the tree is dangerous, seriously diseased, dead or dying;*
- *it has no amenity value to the Conservation Area;*
- *its removal is in the interests of good tree management, or would permit development which would contribute more to the good planning of the area than would retaining the tree or trees.”*

28 In the case that removal is permitted, under this policy, replanting with one or more trees of appropriate species will normally be required. The policy highlights that all tree work should be undertaken in accordance with British Standard 3998 (1989) and any subsequent revisions.

29 The potential effect on trees and level of tree removal as a result of the development is considered in **Chapter 10: Landscape and Visual Amenity**. This chapter also details any relevant mitigation measures that will be put in place to reduce effects.

30 Policy **DP12: Biodiversity Assessment** states that *“where a development site contains trees (including individual trees, hedges or woodland) or aquatic habitat (ponds, watercourses, marshland) then information must be provided showing the location and brief description of the feature(s)”*

31 However, for developments which could damage the interest of a designated natural heritage site, a detailed assessment may be required. The planning authority will decide whether a detailed assessment is required based on advice provided by the Council’s Biodiversity Officer. It will be the developer’s responsibility to carry out the assessment. This requirement is likely to apply to large developments and sites suspected of having particular biodiversity potential.

32 Additional to Policy DP12, in relation to developments that will require a biodiversity assessment, Policy **DP13: Biodiversity and Development Sites** states that development will not be permitted where it results in a net loss of the biodiversity resource identified. Permission will only be granted where the development design can be shown to minimise loss, mitigation measures have been proposed and the benefits of the development outweigh effect(s) on biodiversity.

33 **Chapter 8: Terrestrial and Inter-tidal Ecology and Ornithology** provides a detailed ecological assessment which includes consideration of protected species and the habitats set out in Policy DP13. The chapter also sets out how biodiversity has been taken into account in the design process and mitigation measures have been put forward to minimise effects.

34 Policy **DP14: Trees on or Adjacent to Development Sites** requires that the design of a new development should be sensitive to trees and hedgerows that contribute to the setting, amenity, or nature conservation of an area. If the loss of such trees was permitted, appropriate replacement planting may then be made a condition of planning permission.

35 Trees and ancient woodland are considered in detail in **Chapter 8: Terrestrial and Inter-tidal Ecology and Ornithology** and accompanying appendices (**Appendix 8.7: Arboricultural Implications Assessment** and **Appendix 8.8: Arboricultural Method Statement**) have been prepared to provide further, more detailed information. The landscape value of trees is considered within **Chapter 10: Landscape and Visual Amenity**.

#### 6.4.4 Cultural Heritage

##### 6.4.4.1 The Edinburgh and Lothians Structure Plan 2015

36 International and National Historic or Built Environment Designations are granted protection under Policy **ENV 1 C**. The policy discourages development which would harm the character, appearance and setting of the following designated built or cultural heritage sites, and/or the specific features which justify their designation:

- World Heritage Sites;
- Listed Buildings;
- Scheduled Ancient Monuments;
- Royal Parks;
- Sites listed in the Inventory of Gardens and Designed Landscapes.

##### 6.4.4.2 The East Lothian Local Plan 2008

37 Policy **ENV3: Listed Buildings** states that:

*“the external or internal alteration of a Listed Building will only be permitted where it does not harm the architectural or historic character of the building;  
the demolition of a Listed Building will not be permitted unless there are overriding environmental or practical reasons. It must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use;  
new development that harms the setting of a Listed Building will not be permitted.”*

38 **Policy ENV4: Development within Conservation Areas** requires that all new development be sensitive to the architectural or historic character within Conservation Areas, taking into account the size, proportions, orientation, positioning, density, materials, and boundary treatment of nearby buildings and public and private spaces.

39 **Policy ENV7: Scheduled Monuments and Archaeological Sites** requires, that *“where a proposed development might affect any site or area included in the East Lothian Sites and Monuments Record (of known or suspected archaeological interest), the developer must first undertake and make available to the Planning Authority a professional archaeological assessment and, if necessary, a field evaluation.”*

40 Under this policy, any *“development that would harm a site of archaeological interest or its setting, particularly a Scheduled Monument, will not be permitted”*. Exceptions may apply if the benefits of the development outweigh the value of preserving the feature of interest. Where permission is granted, responsibility will lie with the developer to excavate, record and analyse the archaeological remains in advance of commencement of the development.

41 **Policy ENV8: Gardens and Designed Landscapes** protects those areas identified within *‘The Inventory of Gardens and Designed Landscape’* from harmful development.

42 There are no designated cultural heritage sites within the application boundary. A full assessment of impacts on features of historical and archaeological interest is presented in **Chapter 9: Cultural Heritage**.

## 6.4.5 Landscape

### 6.4.5.1 The Edinburgh and Lothians Structure Plan 2015

43 Policy **ENV 1 D** of the Structure Plan, addressed in paragraph 65, refers to the sensitivities within the landscape that should be considered.

### 6.4.5.2 The East Lothian Local Plan 2008

44 **Policy NH4: Areas of Great Landscape Value** prevents development that has the potential to harm the landscape character and appearance of Areas of Great Landscape Value.

45 **Policy DP 1: Landscape and Streetscape Character** requires that all new built development must be integrated into its surroundings and designed in order to retain important existing natural and physical features.

46 A detailed analysis of the landscape and visual impact of the Onshore Works including impacts on sites designated for their landscape value is provided in **Chapter 10: Landscape and Visual Amenity**.

## 6.4.6 Ground Conditions and Geology

### 6.4.6.1 The Edinburgh and Lothians Structure Plan 2015

47 Policy **ENV 1 D** of the Structure Plan, addressed in paragraph 65, refers to the sensitivities of peatland, relevant to this topic area.

48 A peat assessment has been prepared to accompany the application and is discussed in **Chapter 12: Hydrology, Flood Risk, Water Resources and Surface Water Quality** and summarised in **Appendix 12.2**.

### 6.4.6.2 The East Lothian Local Plan 2008

49 There are no policies within the Local Plan that relate specifically to geology.

## 6.4.7 Hydrology

### 6.4.7.1 The Edinburgh and Lothians Structure Plan 2015

50 **Policy ENV 12: Water Management and Flooding** prevents any development that may lead to a significant increase in the risk of flooding on an individual or cumulative basis. Equally, a development will not be permitted if the site

itself is at risk from flooding. If a development is proposed for a greenfield or brownfield site, the policy states that proposals *“should include sustainable drainage systems for the attenuation and treatment of surface water and to assist in reducing the risk of flooding unless local conditions prevent this approach.”*

51 **Chapter 12 Hydrology, Flood Risk, Water Resources and Surface Water Quality** provides an assessment of likely flood risk. A detailed flood risk assessment of the cable landfall point is provided in **Appendix 12.1**.

### 6.4.7.2 The East Lothian Local Plan 2008

52 In view of the potential impact on the ecology and amenity of an area, there is a general presumption against engineering works on watercourses under **Policy NH6: Watercourses and Wetlands**. Developers *“should be aware of SEPA’s requirements under the Water Framework Directive.”*

53 **Policy DP15: Sustainable Urban Drainage Systems** states that:

*“All development proposals that require to be serviced by a SUDS scheme must have such details incorporated at the time of submitting a planning application unless an exceptional circumstance, such as ground conditions, prevent such provision.”*

54 A Drainage Impact Assessment will be required and proposals that include measures to enhance or create habitats, such as wetlands or ponds, will be encouraged.

55 **Chapter 12: Hydrology, Flood Risk, Water Resources and Surface Water Quality** provides an assessment of drainage.

56 **Policy DP16: Flooding** states that development that may cause flood risk will not be permitted unless the following is demonstrated:

- *“such development proposals are accompanied by a Flood Risk Assessment;*
- *Sufficient compensatory water storage capacity can be provided in an appropriate location to replace that lost;*
- *A sufficient allowance for freeboard is included;*
- *A drainage assessment submitted in support of development proposals indicates there will be a neutral effect on the probability of flooding elsewhere.*
- *Appropriate water resistant materials and forms of construction will be used where appropriate.”*

57 The policy also states that efforts to minimise flood risk and protect the watercourses should be implemented where any new development has the potential to affect existing watercourses. The development design should avoid the introduction of new culverts or works that could have a detrimental effect on any existing flood defences.

58 **Chapter 12: Hydrology, Flood Risk, Water Resources and Surface Water Quality** provides a comprehensive assessment of the potential effects of the Onshore Works on hydrology and evaluates any associated risk of flooding. The Chapter also provides an explanation of why certain engineering solutions have been selected in respect of watercourse crossings.

## 6.4.8 Agriculture and Land Use

### 6.4.8.1 The Edinburgh and Lothians Structure Plan 2015

59 Policy **ENV 3: Development in the Countryside** states that *“development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area”*. Where justified in local plans, the policy may support developments of the following nature in the interest of rural diversification:

- *“tourism or other recreational uses;*
- *development that re-uses appropriate redundant rural buildings that make a positive contribution to the landscape;*
- *diversification of an appropriate scale and character on agricultural land, including lowland crofting, as a means of supporting and diversifying the rural economy, maintaining communities and services or effecting landscape improvement.”*

#### 6.4.8.2 The East Lothian Local Plan 2008

- 60 **Policy DC1: Development in the Countryside and Undeveloped Coast** states that development will be acceptable in principle in such areas where it is directly related to agriculture, horticulture, forestry and countryside recreation. Other development proposals of an appropriate scale and character may be considered if they can prove that there will be no significant impacts on traffic or the environment.
- 61 The policy states a number of factors that should be considered for the case of any development proposed for the countryside or undeveloped coast. A development should:
1. With regard to its nature and scale, be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings.
  2. Be sited so as to minimise visual intrusion and landscape impact and respect/make use of the setting provided by landform or existing landscape features;
  3. Have no significant adverse impact on nearby uses.
  4. Minimise the loss of prime agricultural land.
  5. Take account of the design policy framework contained in Chapter 13 of the local plan.
  6. Ensure suitable access and infrastructure is or can be made available.
- 62 Further information about and an assessment on the effect of the Onshore Works on agriculture and development in the countryside is provided in **Chapter 13: Soils, Agriculture and Land Use**.
- 63 **Policy C3: Protection of Open Space** protects the recreational interests of the community and open space that facilitates recreational and leisure activities. The policy states that *“alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:*
- *the loss of a part of the land would not affect its recreational, amenity or landscape potential, or*
  - *alternative provision of equal community benefit and accessibility would be made available, or*
  - *provision is clearly in excess of existing and predicted requirements”.*
- 64 **Policy C4: Protection of Potential Areas of Open Space** states the following:
- “Development proposals on areas of land that are not subject to Policy C3 and which have significant actual or potential value as open space will be subject to assessment under the terms of Policy C3.”*
- 65 An area including the northern section of Thorntonloch beach and Thorntonloch caravan park is covered by Policy C3. **Chapter 17: Socioeconomic Effects** includes assessment of the potential impacts on recreational activities within the vicinity of the Onshore Works.

#### 6.4.9 Traffic and Transport

##### 6.4.9.1 The East Lothian Local Plan 2008

- 66 **Policy T2: General Transport Impact** states that any new development should avoid adverse effects on the following:
- road safety;
  - convenience of travel, including by foot, bicycle and public transport;
  - traffic flow not related to the development; or
  - residential amenity.
- 67 **Policy DP18: Transport Assessments and Travel Plans** requires that development proposals that are likely to have a significant effect on the transport system should be accompanied by a Transportation Assessment.
- 68 **Chapter 14: Access, Traffic and Transport** provides a comprehensive assessment of the effects on traffic in relation to the Onshore Works (with a focus on the construction phase) and provides details of access to site during the construction and operation phases.

#### 6.4.10 Socio-Economic, Recreation and Tourism

##### 6.4.10.1 The Edinburgh and Lothians Structure Plan 2015

- 69 Within the Structure Plan, reference is made to this topic area within Policy ENV 3 noted above in relation to Agriculture and Land Use.

##### 6.4.10.2 The East Lothian Local Plan 2008

- 70 The Local Plan policies on tourism are specific to individual sites and not relevant to the area within the vicinity of the Onshore Works. However, the Plan does state that East Lothian is an important tourism destination. The Local Plan seeks to encourage tourism, whilst maintaining a balance to protect the landscape and nature conservation assets of the area.
- 71 Reference is made to the East Lothian Action Plan 2004 – 2007 which focuses on providing good facilities for visitors, especially in association with golf tourism which is of particular importance to the area economically. The Action Plan also recommends improvements with regard to environmental tourism, walking, cycling, and passive recreation and heritage interpretation and visitor information.
- 72 **Policy C6: Rights of Way** protects rights of way and bridleways from obstruction.
- 73 **Policy C7: Core Paths and Other Routes** has been established to encourage the development of a Core Path network. Where a development will affect a customary path, cycle way or bridle way or an agreed or proposed Core Path, permission will only be granted where the overall integrity of the route and network is maintained. Planning conditions and other legal agreements may also be proposed by the Council.
- 74 There are several Rights of Way (RoW) that travel close to the application boundary, one of which crosses it (RoW LE211). There are also several core paths that fall within the application boundary, many of which correlate with the RoWs in the area. These are concentrated near Thorntonloch at the coast, several of which correspond with the John Muir Way which is a popular coastal path. Further details on the location of these public access routes, and recreation and tourism, are provided in **Chapter 17: Socioeconomic Effects**.

#### 6.5 Other Planning Policy Considerations

##### 6.5.1.1 The Edinburgh and Lothians Structure Plan 2015

- 75 Policy **ENV 1 D: Regional and Local Natural and Built Environment Interests** applies to several of the topic areas addressed above. The policy protects the interests and setting of the regional or local areas of natural heritage and built environmental interest listed below:
- Conservation Areas;
  - Areas of Great Landscape Value or other local landscape designations defined in local plans;
  - Pentland Hills Regional Park;
  - Country Parks;
  - Defined core and local path networks;
  - Local Nature Reserves;
  - Regionally Important Geological and Geomorphological Features;
  - Sites of archaeological interest;
  - Designated Wildlife Sites;
  - Peatland;
  - Prime agricultural land;
  - Water supply catchment areas;
  - Areas of significant open space within urban areas.
- 76 Under this policy, development *“will only be permitted where it can be demonstrated that:*
- *The objectives and overall integrity of the designated area will not be compromised; or*
  - *The social or economic benefits to be gained from the proposed development outweigh the conservation or other interest of the site.”*

77 As noted, **Chapter 8: Terrestrial and Inter-tidal Ecology and Ornithology, Chapter 9: Cultural Heritage, Chapter 10: Landscape and Visual Amenity, Chapter 11: Geology, Ground Conditions, Groundwater and Coastal Processes, Chapter 12: Hydrology, Flood Risk, Water Resources and Surface Water Quality, Chapter 13: Agriculture Soils and Land use and Chapter 17: Socioeconomic Effects** provide assessments related to the features/sites of interest listed above in **Policy ENV 1 D**.

#### 6.5.1.2 The East Lothian Local Plan 2008

78 Policy **NRG2: Torness Consultation Zone** states that British Energy will be consulted regarding any development within 4 km of the Torness Generating Station. The Onshore Works are approximately 250m southwest of this site at the closest point.

#### 6.5.1.3 The Emerging Local Development Plan

79 The changes effected by Part 2 of the Planning etc. (Scotland) Act 2006 replace Structure Plans with Strategic Development Plans (SDP) to be prepared for the four city regions of Edinburgh, Glasgow, Dundee and Aberdeen. There is no requirement to prepare a SDP outwith these regions, however all planning authorities must prepare Local Development Plans. The Edinburgh and South East Scotland SDP (SESplan) covers East Lothian and it is intended that the SESplan be submitted to the Scottish Ministers for examination and approval in July 2012. In addition to contributing to the SESplan, East Lothian Council has begun preparation of the East Lothian Local Development Plan (ELLDPone), with the aim to adopt the plan in August 2014. However, until the existing two-tier Development Plans are replaced by the next generation of Local Development Plans, the Edinburgh and Lothians Structure Plan 2015 and the East Lothian Local Plan 2008 will continue to form part of the Development Plan.

## 6.6 Other Material Considerations

### 6.6.1 East Lothian Planning Guidance

80 In December 2010, East Lothian Council published '*Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian*'. This is a stand-alone document and is not supplementary to the Development Plan.

81 Again, whilst specifically related to onshore wind farm/turbine developments, the guidance also makes reference to supporting infrastructure. The guidance states that the colour of wind farm related infrastructure should relate to the colours of their landscape setting. The guidance also refers to the impact of any overhead lines from the turbines to control cabinets and to grid connections and states that "*such power lines should be placed underground where possible*".

82 The majority of the Onshore Works will be located underground, with the substation being the only significant permanent above ground infrastructure. It will be located adjacent to an existing substation which is surrounded by turbines and electricity pylons. Further details are provided in **Chapter 5 Project Description** and **Chapter 10: Landscape and Visual Amenity**.

#### 6.6.1.1 Scottish Borders Development Plan

83 The administrative boundary of the Scottish Borders is closest to the Onshore Works at the south-western end of the scheme where the substation is located. Due to the nature of the Onshore Works and proximity to this council region, the landscape policies within the Development Plan for the Scottish borders are considered in this section.

84 The Scottish Border Development Plan comprises the New Way Forward Scottish Borders Structure Plan 2001-2018, which was approved in 2002 and updated in 2009 and the Scottish Borders Local Plan, adopted in 2008.

#### 6.6.1.2 The New Way Forward Scottish Borders Structure Plan 2001-2018

85 **Policy N9: Maintaining Landscape Character** requires that development proposals are guided by the *Scottish Borders Landscape Assessment* in order to maintain the integrity of the landscape character and enhance its quality.

86 **Policy N10: National Scenic Areas** only permits development within a National Scenic Area if the objectives of the designation will not be compromised. In addition, any adverse effects on the designation must be outweighed by the social or economic benefits of the development.

87 Under **Policy N11: Areas of Great Landscape Value** (AGLV), the Council will seek to safeguard landscape quality in the event that a development is proposed in such an area. As above, permission will only be granted if the benefits outweigh any adverse effects.

88 The application boundary of the Onshore Works lies within two AGLVs, one at the eastern extent and another to a larger extent in the west. Full detail of the effects on landscape designations is provided in **Chapter 10: Landscape and Visual Amenity**.

#### 6.6.1.3 The Scottish Borders Local Plan 2008

89 The Local Plan recognised that "*the quality of the natural and built environment is one of the Scottish Borders' principle assets. The area is recognised as having many outstanding landscapes*". The policies relevant to the protection of the landscape are listed below.

- **Policy EP1: National Scenic Areas;**
- **Policy EP2: Areas of Great Landscape Value.**

90 Both policies defer to those within the Structure Plan noted above (Policy N1 and N11).

## 6.7 References

The City of Edinburgh Council, East Lothian Council, Midlothian Council and West Lothian Council (2004) The Edinburgh and Lothians Structure Plan 2015. Available at: [http://www.eastlothian.gov.uk/info/198/planning-long\\_term\\_and\\_area\\_policies/298/the\\_edinburgh\\_and\\_lothians\\_structure\\_plan\\_2015](http://www.eastlothian.gov.uk/info/198/planning-long_term_and_area_policies/298/the_edinburgh_and_lothians_structure_plan_2015)

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