



CLEVE HILL SOLAR PARK

ENVIRONMENTAL STATEMENT

VOLUME 1 - CHAPTERS

CHAPTER 6 - LEGISLATIVE AND PLANNING POLICY CONTEXT

November 2018
Revision A

Document Reference: 6.1.6
APFP Regulation: 5(2)(a)

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6 LEGISLATIVE AND PLANNING POLICY CONTEXT

6.1 Introduction

1. This chapter of the ES sets out the legislative and planning framework for the Development. An appraisal of the Development in the context of the legislative and planning framework identified is carried out in the Planning Statement which accompanies the Application (Document Reference: 7.2).
2. The Planning Act 2008 (“the Act”) created a new regime for the consenting of major infrastructure projects. If a project meets certain criteria that are defined under the Act the project will be classified as a Nationally Significant Infrastructure Project (NSIP). This development consent regime and application process requires developers of NSIP projects to obtain a DCO to consent the construction, operation and maintenance of their projects.
3. Under the Act the Development constitutes an NSIP. The Development falls under the NSIP consenting regime because:
 - it consists of “the construction or extension of a generating station” (Section 14 (1)(a) of the Act); and
 - “its capacity is more than 50 megawatts” (Section 15 (2) of the Act).
4. Section 105 of the Act states the Secretary of State must have regard, as the decision maker to an application for an order granting development consent where a national policy statement (NPS) does not exist for the type of development applied for, to any Local Impact Report and to any other matters which the Secretary of State considers relate to and are important to the decision. This may include a variety of national planning and local planning documents, including NPSs.
5. NPSs were designated under the Act. They describe the national case and establish the need for certain types of infrastructure development, as well as identifying potential key issues that should be considered by the decision maker when considering an application for a DCO. Although there is no NPS which provides specific policy in relation to solar photovoltaic (PV) and energy storage development, in previous applications where no NPS applies, the Secretary of State has applied relevant related NPSs as if the NPS governed the development in question. For example, in the examining authority's report for the Tidal Lagoon (Swansea Bay) Order 2015, the overarching NPS for Energy EN-1 and the renewable energy NPS EN-3 were referred to¹. The Planning Inspectorate has also confirmed this approach in pre-application advice for the Development. Therefore, three NPS which have provisions relevant to the Development, in the opinion of the authors, have been identified. The provisions of the NPS considered relevant by the authors are outlined below, together with other considerations relevant to the planning framework.
6. This chapter contains details of the key planning documents and policies considered relevant to the Development, which has been informed by consultation. The list is not exhaustive, there are supplementary guidance documents, frameworks and legislation contained in other ES chapters which provide specific topic related advice and content. The reference to specific planning policies and guidance within other chapters ensures that there is full knowledge and understanding of planning related issues within the ES.
7. The Planning Statement (DCO Document Reference 7.4) submitted as part of the Application provides a detailed assessment of the Development against the policies identified in this chapter of the ES. Although the two documents are complementary,

¹ See also decisions on Triton Knoll Electrical System Order 2017 and Glyn Rhonwy Pumped Storage Generating Station Order 2017.

the planning chapter simply identifies the relevant legislative and planning framework for the Development to inform other chapters of the ES and the Planning Statement, whilst the Planning Statement contains an assessment of the acceptability of the Development in the context of the legislative and planning framework identified.

6.2 National Policy Statements

6.2.1 Overarching National Policy Statement for Energy (EN-1)

8. The overarching NPS for Energy (EN-1)² was adopted in July 2011 and sets out the overall national energy policy for delivering major energy infrastructure.
9. Part 1 of the statement provides the context for the document, largely focusing on the role of the NPS in the planning system. Paragraph 1.2.1 states:

"This NPS, and in particular the policy and guidance on generic impacts in Part 5, may be helpful to local planning authorities (LPAs) in preparing their local impact reports. In England and Wales this NPS is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, this NPS is a material consideration will be judged on a case by case basis."
10. Paragraph 1.7.11 particularly highlights the importance of energy projects being in harmony with their surroundings:

"As noted above, the principal area in which consenting new energy infrastructure in accordance with the energy NPSs is likely to lead to adverse effects which cannot always be satisfactorily mitigated is in respect of landscape and visual effects. EN-1 already contains policies which severely limit the prospects for development of large-scale energy infrastructure in the most attractive landscapes and townscapes. Tightening the development consent policies in EN-1 to make it harder for energy infrastructure to be consented which would have adverse landscape or townscape effects would be likely to make it significantly more difficult to gain consent for a range of large-scale energy infrastructure projects. Alternative A4 is not to be preferred to EN-1, at least until such time as it becomes clear that levels of need for new large-scale energy infrastructure are very much lower than Government anticipates that they will be for the foreseeable future."
11. Part 2 of the statement sets out the Central Government policy context for major energy infrastructure. It comprises the need to meet legally binding targets to cut greenhouse gas emissions; transition to a low carbon economy; decarbonise the power sector; reform the electricity market; secure energy supplies; replace outdated energy infrastructure; and widen objectives of sustainable development. In particular in this section, paragraph 2.2.16 identifies that approximately a quarter of the UK's generating capacity is due to close by 2018 and that new low-carbon generation is required which is reliable, secure and affordable.
12. Part 3 also outlines that considerations of need should be given considerable weight when determining applications for energy developments.
13. Paragraph 3.2.3 sets out more detail around the importance that Central Government attaches to the need for new energy infrastructure and to its energy policy, including combating climate change, by stating that:

² Department of Energy and Climate Change, July 2011, " National Policy Statement for Energy (EN-1)", Available on line at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf [Accessed on 31/07/2018]

"The Government considers that, without significant amounts of large-scale energy infrastructure, the objectives of its energy and climate change policy cannot be fulfilled."

14. However, it goes on to add the caveat that:

"However, as noted in Section 1.7, it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts. This Part also shows why the Government considers that the need for such infrastructure will often be urgent. The IPC should therefore give substantial weight to considerations of need. The weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure."

15. Paragraph 3.3.2 states that new generating capacity is required because of the need to ensure energy security, and that the need to ensure sufficient capacity is a key objective of Government energy policy:

"The Government needs to ensure sufficient electricity generating capacity is available to meet maximum peak demand, with a safety margin or spare capacity to accommodate unexpectedly high demand and to mitigate risks such as unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events. This is why there is currently around 85 GW of total generation capacity in the UK, whilst the average demand across a year is only for around half of this."

16. The benefits of an energy mix in ensuring a secure energy supply are also recognised in that the characteristics of different types of electricity generation, including renewable energy and other technologies, can complement each other.

17. Paragraph 3.3.12 states the need for the installation of supporting technologies, but highlights that there will none the less be a requirement for greater generating capacity to act as backup to the existing renewable technologies:

"There are a number of other technologies which can be used to compensate for the intermittency of renewable generation, such as electricity storage, interconnection and demand-side response, without building additional generation capacity. Although Government believes these technologies will play important roles in a low carbon electricity system, the development and deployment of these technologies at the necessary scale has yet to be achieved. The Government does not therefore consider it prudent to solely rely on these technologies to meet demand without the additional back-up capacity (see further paragraphs 3.3.30-3.3.34 below). It is therefore likely that increasing reliance on renewables will mean that we need more total electricity capacity than we have now, with a larger proportion being built only or mainly to perform back-up functions."

18. Paragraph 3.4.1 sets out the targets for renewable energy generation and specifically highlights the need for new projects to come forward urgently in order to meet said targets:

"The UK has committed to sourcing 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020 and new projects need to continue to come forward urgently to ensure that we meet this target. Projections suggest that by 2020 about 30% or more of our electricity generation – both centralised and small-scale – could come from renewable sources, compared to 6.7% in 2009. The Committee on Climate Change in Phase 1 of its advice to Government in September 2010 agreed that the UK 2020 target was appropriate, and should not be increased. Phase 2 was published in May 2011 and provided

- recommendations on the post 2020 ambition for renewables in the UK, and possible pathways to maximise their contribution to the 2050 carbon reduction target”*
19. Part 4 sets out a number of assessment principles against which applications are to be decided, including the presumption to grant consent for applications for energy NSIPs, and the need to balance potential benefits against potential adverse impacts.
20. Paragraph 4.1.2 sets out the presumption to grant consent for NSIP applications relating to renewable energy developments:
- “Given the level and urgency of need for infrastructure of the types covered by the energy NSPs set out in Part 3 of the NPS, the IPC should start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant National Policy Statements clearly indicate that consent should be refused. The presumption is also subject to the provisions of the Planning Act 2008 referred to at paragraph 1.1.2 of this NPS.”*
21. Paragraph 1.1.2 states:
- “The Planning Act 2008 also requires that the IPC must decide an application for energy infrastructure in accordance with the relevant NPSs except to the extent it is satisfied that to do so would:*
- lead to the UK being in breach of its international obligations;*
 - be in breach of any statutory duty that applies to the IPC;*
 - be unlawful;*
 - result in adverse impacts from the development outweighing the benefits; or*
 - be contrary to regulations about how its decisions are to be taken.”*
22. Paragraphs 4.2.2 and 4.2.3 provide national policy on what an ES for a NSIP project should contain:
- “To consider the potential effects, including benefits, of a proposal for a project, the IPC will find it helpful if the applicant sets out information on the likely significant social and economic effects of the development, and shows how any likely significant negative effects would be avoided or mitigated. This information could include matters such as employment, equality, community cohesion and well-being.*
- For the purposes of this NPS and the technology-specific NPSs the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.”*
23. Paragraph 4.2.4 then sets out how the assessment of the ES by the decision maker should be carried out:
- “When considering a proposal the IPC should satisfy itself that likely significant effects, including any significant residual effects taking account of any proposed mitigation measures or any adverse effects of those measures, have been adequately assessed. In doing so the IPC should also examine whether the assessment distinguishes between the project stages and identifies any mitigation measures at those stages. The IPC should request further information where necessary to ensure compliance with the EIA Directive.”*
24. Paragraph 4.3.1 states that suitable consideration should be given to whether a development may have a significant impact on a European site:

"Prior to granting a development consent order, the IPC must, under the Habitats and Species Regulations³, (which implement the relevant parts of the Habitats Directive and the Birds Directive⁴ in England and Wales) consider whether the project may have a significant effect on a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects. Further information on the requirements of the Habitats and Species Regulations can be found in a Government Circular⁸¹. Applicants should also refer to Section 5.3 of this NPS on biodiversity and geological conservation. The applicant should seek the advice of Natural England and/or the Countryside Council for Wales, and provide the IPC with such information as it may reasonably require to determine whether an Appropriate Assessment is required. In the event that an Appropriate Assessment is required, the applicant must provide the IPC with such information as may reasonably be required to enable it to conduct the Appropriate Assessment. This should include information on any mitigation measures that are proposed to minimise or avoid likely effects."

25. Paragraph 4.4.1 states the following regarding alternatives:

"As in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option."

26. Section 4.5 highlights the need for good design in energy projects, and how the key factors of functionality and siting can have a great impact in making energy projects as effective as possible.
27. Part 5 sets out guidance for the Inspectorate in relation to the generic impacts of energy developments, stating that impacts and means of mitigation should be considered where the impact is relevant and important to the decision. These impacts concern air quality and emissions; biodiversity; aviation; coastal change; dust and various other pollution control related matters; flood risk; historic environment; landscape and visual; land use; noise and vibration; socio-economics; traffic and transport; waste; and water quality and resources. The impacts of the Development on those factors have been considered throughout the EIA and presented in detail in the ES.

6.2.2 National Policy Statement on Renewable Energy Infrastructure (EN-3)

28. The National Policy Statement on Renewable Energy Infrastructure (EN-3)⁵ was adopted in July 2011 and provides national planning policy in respect of renewable energy infrastructure.
29. Paragraph 1.1.1 of EN-3 underlines the importance of the generation of electricity from renewable sources by stating:

"Electricity generation from renewable sources of energy is an important element in the Government's transition to a low-carbon economy. There are ambitious renewable energy targets in place and a significant increase in generation from large-

³ The Conservation of Habitats and Species Regulations 2010 (SI2010/490).

⁴ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora; Council Directive 2009/147/EC on the conservation of wild birds.

⁵ Department of Energy and Climate Change, July 2011, " National Policy Statement for Renewable Energy Infrastructure (EN-3)", Available on line at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47856/1940-nps-renewable-energy-en3.pdf [Accessed on 31/07/2018]

scale renewable energy infrastructure is necessary to meet the 15% renewable energy target.”

30. Whilst EN-3 provides assessment and technology-specific information on certain renewable energy technologies, comprising biomass/waste, offshore wind and onshore wind, this does not include solar PV development. Paragraph 1.8.2. explains the reasoning for this, i.e. at the time of drafting EN-3, Government did not consider other forms of renewable energy generation to be viable over the relevant NSIP threshold, e.g. solar PV over 50MW:

“This NPS does not cover other types of renewable energy generation that are not at present technically viable over 50MW onshore or over 100MW offshore such as schemes that generate electricity from tidal stream or wave power. It is expected that tidal range schemes may be the subject of applications to the IPC within the near future. Government is, therefore, considering the need for either a revision to this NPS or a separate NPS to provide the primary basis for decision-making under the Planning Act on such schemes. When it appears that other renewables technologies will be economically and technically viable over 50MW, the Government will further consider either revisions to this NPS or separate NPSs to cover such technologies”.

31. That presumption in paragraph 1.8.2 has since been superseded, with solar PV now being technically viable above 50MW in the UK and internationally. Indeed, there are hundreds of examples of solar PV projects that have received consent in England and Wales that have been capped at 49.9MW or thereabouts so that they could qualify for the local planning regime under the Town and Country Planning Act 1990. Many of those projects could feasibly have achieved a greater generating capacity. However, EN-3 has not been updated, nor has a solar PV specific NPS been adopted. Even so, the omission of solar PV from EN-3 should not be considered as a lack of Government or policy support for the Development or solar PV development per se.

6.2.3 National Planning Policy Statement for Electricity Networks (EN-5)

32. The National Policy Statement on Electricity Networks Infrastructure (EN-5)⁶ was adopted in July 2011. Whilst EN-5 principally covers above ground electricity lines of 132 kV, paragraph 1.8.2 confirms that EN-5 will also be relevant if the electricity network constitutes an associated development for which consent is sought, such as a generating station. EN-5 is therefore relevant to the Development, as a grid connection is proposed.
33. Part 2 of EN-5 sets out a number of assessment and technology specific matters. Paragraph 2.2.2 points out that the location of electricity networks will often be determined by the particular generating station and the existing electricity network. Part 2 sets out particular generic impacts concerning biodiversity and geological conservation, landscape and visual, noise and vibration, and electric and magnetic field effects.

6.3 National Planning Policy Framework, July 2018

34. Although reference to the NPS should be sufficient in principle for compliance purposes, NPS EN-3 states that applicants and the Secretary of State should still have regard to extant planning policy guidance specifically related to renewable energy projects.

⁶ Department of Energy and Climate Change, July 2011, “ National Policy Statement for Electricity Networks Infrastructure (EN-5)” [online] Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47858/1942-national-policy-statement-electricity-networks.pdf [Accessed on 31/07/2018]

35. The National Planning Policy Framework⁷ (“the NPPF”) was published on 2th July 2018 and is a material consideration in planning decisions.
36. Whilst the NPPF does not contain any specific policies for NSIP development, paragraph 5 of the NPPF states that:
- “These are determined in accordance with the decision making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.”*
37. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying that sustainable development consists of economic, social and environmental roles.
38. Paragraph 11 advises that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means approving development which accords with the local development plan without delay. Where there are no relevant policies or the policies are out of date, permission should be granted unless:
- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusal; or
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
39. Whilst there is no specific policy for solar energy development contained in the NPPF, paragraph 148 proposes that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.
- “The planning system should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings, and support renewable and low carbon energy and associated infrastructure”*
40. Paragraph 150 in relation to Planning for Climate Change states that:
- New development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change. Where there is an increased risk of vulnerability suitable mitigation measures should be adopted; and
 - New development should also help reduce greenhouse gas emissions through its location, orientation and design, taking into account the local requirements for sustainability of buildings.
41. Whilst the Local Planning Authorities (LPAs) are not the determining authority, paragraph 154 of the NPPF sets out that in order to increase the use and supply of renewable energy, LPAs should not require applicants to demonstrate the overall need for renewable or low carbon energy. LPAs should approve the application if its impacts are or can be made acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, LPAs should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed

⁷ Department of Communities and Local Government, July 2018, “National Planning Policy Framework” [online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728643/Revised_NPPF_2018.pdf [Accessed on 15/08/2018]

- location meets the criteria used in identifying suitable areas. If LPAs have not identified suitable areas, a development will require to be assessed against other relevant criteria contained in the NPPF and NPSs, with the presumption in favour of developments that meet the terms of these documents.
42. Paragraphs 170 through 173 of the NPPF highlight the need for planning policy to work to protect and enhance the natural environment. It is particularly important that great care is taken to ensure that landscape value is retained and that as little damage as possible is done to any existing site of interest.
 43. Paragraphs 174 to 177 emphasise on the role of the planning system to protect and enhance habitats and biodiversity. If a significant harm to biodiversity, habitats, SSSIs, SPAs and SASs resulting from a development cannot be avoided or adequately mitigated, or compensated for, then planning permission will not be supported. Development which conserves or enhances biodiversity will be encouraged.
 44. Paragraphs 184 to 202 concern the conservation and enhancement of the historic environment. Proposals that are likely to affect heritage assets should be subject to appropriate assessments. Development that is likely to result in a substantial harm to or total loss of significance of a designated heritage asset will not be permitted, unless it is demonstrated that the benefits of the development outweigh the harm or loss.
 45. The potential environmental impact of the Development will be considered against the principles of the NPPF throughout the relevant sections of the ES, with the case for the Development being demonstrated in the Planning Statement, accompanying the Application.

6.4 The Development Plan

46. The Development Plan does not carry the same weight under the Act in respect of decision making on NSIP, as with the determination of planning applications that are made to LPAs under the Town and Country Planning Act 1990. NPS EN-1 paragraph 4.1.5 provides that the policies contained within Development Plan documents and other Local Development Framework documents may be considered important and relevant in planning decision making under section 104 of the Act, but in the event of a conflict, this paragraph states that the NPSs prevail for the purpose of the Secretary of State's planning decision making. The Development Plan has accordingly been considered as part of the policy context for the Development.
47. The relevant Development Plan comprises of the 'Bearing Fruits 2031: The Swale Borough Local Plan' ("the Swale Local Plan"), and the related Swale Proposals Map ("the Proposals Map") adopted 26th of July 2017 published by Swale Borough Council ("the Council"). The Kent Minerals and Waste Local Plan (2013 – 2030)⁸ also forms part of the Development Plan.
48. The Kent Minerals and Waste Local Plan (2013 – 2030) indicates that the Development site falls within a Mineral Safeguarding Area (MSA) categorised as an area of Sub-Alluvial River Terrace Deposits. It is recognised in the plan that proposals to develop areas overlying safeguarded minerals resources for non-minerals purposes are likely to come forward. It is stated that the need for such development will be weighed against the need to avoid sterilisation of the underlying mineral and the objectives and policies of the development plan.
49. In addition, and following consultation during the Scoping stage, Canterbury City Council, in its then capacity as a statutory consultee (Canterbury City Council is now a

⁸ Kent County Council (2017) Kent Minerals and Waste Plan [online] Available at: <https://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/planning-policies/minerals-and-waste-local-plan/minerals-and-waste-local-plan> [Accessed 15/08/2018]

host authority owing to the extension of the Development site boundary to the east in May 2018), advised that consideration should be given to the Canterbury District Local Plan 2017 (“the Canterbury Local Plan”). Canterbury Council drew specific reference to the following aspects of the Canterbury Local Plan:

- a) Landscape and Visual;
- b) Ecology and Ornithology;
- c) Access and Traffic; and
- d) Air Quality.

50. Canterbury District Local Plan was adopted on 13th July 2017 and sets out Canterbury City Council's vision for the area from 2011 to 2031.

6.4.1 Relevant Development Plan Policies

51. Tables 6.1, 6.2 and 6.3 contain lists of the policies of the adopted Local Plans which have the potential to be of relevance to the Development

Table 6.1 Swale Borough Local Plan Policies

Policy	Policy Title
Policy ST 1	Delivering Sustainable Development in Swale
Policy ST 7	The Faversham area and Kent Downs Strategy
Core Policy 2	Promoting Sustainable Transport
Core Policy 4	Requiring Good Design
Core Policy 7	Conserving and Enhancing the Natural Environment – Providing for Green Infrastructure
Core Policy 8	Conserving and Enhancing the Historic Environment
Policy DM 3	The Rural Economy
Policy DM 14	General Development Criteria
Policy DM 18	Flooding and Drainage
Policy DM 19	Sustainable Design
Policy DM 20	Renewable and Low Carbon Energy
Policy DM 21	Water, Flooding and Drainage
Policy DM 22	The Coast
Policy DM 23	Coastal Change Management
Policy DN 24	Conserving and Enhancing Valued Landscapes – Local Plan Map shows site area as within an “Area of High Landscape Value – Kent Level”
Policy DM 26	Rural Lanes
Policy DM 28	Biodiversity and Geological Conservation
Policy DM 29	Woodland, Trees and Hedges
Policy DM 30	Enabling Development for Landscape and Biodiversity Enhancement
Policy DM 31	Agricultural Land

Table 6.2 Kent County Council: Waste and Minerals Local Plan (2013 – 2030) Policies

Policy	Policy Title
Policy DM 7	Safeguarding Mineral Resources

Policy DM 8	Safeguarding Minerals Management, Transportation Production & Waste Management Facilities
Policy DM 9	Prior Extraction of Minerals in Advance of Surface Development

Table 6.3 Canterbury District Local Plan Policies

Policy	Policy Title
Policy SP 1	Sustainable Development
Policy SP 6	Strategic Access Management and Monitoring (SAMM) Mitigation Measures for the coastal Special Protection Areas and Ramsar Sites
Policy T 1	Transport Strategy
Policy T 16	Rural Lanes
Policy CC 1	Renewable and Low Carbon Energy Production Development (apart from wind energy development)
Policy CC 4	Flood Risk
Policy CC 5	Flood Zones
Policy CC 11	Sustainable Drainage Schemes
Policy CC 12	Water Quality
Policy DBE 2	Renewable Energy
Policy DBE 3	Principles of Design
Policy DBE 9	Outdoor Lighting
Policy EMP 12	Agricultural Land
Policy HE 12	Area of Archaeological Interest
Policy LB 2	Areas of High Landscape Value
Policy LB 3	Undeveloped Coast
Policy LB 4	Landscape Character Area
Policy LB 5	Sites of International Conservation Importance
Policy LB 6	Sites of Special Scientific Interest
Policy LB 7	Locally Designated Sites
Policy LB 8	Landscape Scale Biodiversity Networks
Policy LP 9	Protection, mitigation, enhancement and increased connectivity for species and habitats of principal importance
Policy LB 10	Trees, Hedgerows and Woodland
Policy LB 12	Seasalter
Policy LB 13	River Corridors
Policy QL 11	Air Quality
Policy QL 12	Potentially Polluting Development

6.5 Summary of relevant Material Planning Considerations

58. There is an array of material considerations that could be considered relevant to the Development and many of these are acknowledged within the various chapters of the ES. This section of the planning chapter does not provide a definitive list of material considerations and is not intended to provide a review of all documents assessed throughout the full ES. The following summary outlines particular renewable energy related considerations and is included for information purposes. Specific national and local considerations are identified, including Planning Practice Guidance (PPG) and Swale Borough Council's Renewable Energy Planning Guidance.

6.5.1 Energy Policy

59. The UK is subject to the following legally binding targets in respect of reduction of carbon emissions and use of renewable energy:

- Climate Change Act 2008⁹ (as amended) sets a legally binding target to reduce UK carbon emissions by 80% by 2050 and at least 34% by 2020, against a 1990 baseline; and

⁹ Climate Change Act 2008 as amended by the Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009

- Renewable Energy Directive 2009/28/EC¹⁰ sets targets for Member States in respect of the use of energy from renewable resources. The UK's obligation is 15% of energy consumption from renewable energy resources by 2020.
60. The European Council 2030 Climate and Energy Framework¹¹ has set a further target of at least a 40% reduction in greenhouse gas emissions by 2030. The target is binding and all Member States are required to participate in this effort to further combat climate change.
61. The UK Solar PV Strategy Part One: Roadmap to a Brighter Future (2013)¹² and Part Two: Roadmap to a Brighter Future (2014)¹³ set out the role of solar development to increase the use of renewable energy. These is a recognition in these documents that agricultural land will be used for solar development and that biodiversity benefits can arise, if developments are well planned.
62. The Annual Energy Statement (2014)¹⁴ ("the AES") provides the most recent update from Central Government on progress against energy policy. The AES recognises the significant level of investment and employment which has resulted from renewable energy development, and that investment and employment is likely to reach into the supply chain in all parts of the UK.

6.5.2 The National Planning Practice Guidance¹⁵ ("the PPG")

63. The PPG was launched by central Government as a planning practice guidance web based resource. The PPG is part of Central Government's intention to reform and simplify the planning system. The PPG contains a specific section on renewable and low carbon energy. PPG paragraph 001 confirms, in line with the NPPF, that:

"Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable."

64. PPG Paragraph 007 does advise that there is not a unilateral acceptance of all renewable developments:

"Policies based on clear criteria can be useful when they are expressed positively (ie that proposals will be accepted where the impact is or can be made acceptable). In thinking about criteria the National Policy Statements published by the Department of

¹⁰ Directive 2009/28/EC (Renewable Energy)

¹¹ European Council, 24 October 2014, Conclusions on 2030 Climate and Energy Policy Framework, Available on line at <http://data.consilium.europa.eu/doc/document/ST-169-2014-INIT/en/pdf> [Accessed on 31/07/2018].

¹² Department of Energy and Climate Change, October 2013, "UK Solar PV Strategy Part 1: Roadmap to a Brighter Future", Available online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249277/UK_Solar_PV_Strategy_Part_1_Roadmap_to_a_Brighter_Future_08.10.pdf [Accessed on 31/07/2018]

¹³ Department of Energy and Climate Change, April 2014, "UK Solar PV Strategy Part 2: Delivering a Brighter Future" [online] Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/302049/uk_solar_pv_strategy_part_2.pdf [Accessed on 31/07/2018]

¹⁴ Department of Energy and Climate Change, October 2014, "Annual Energy Statement 2014" Available on line at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371388/43586_Cm_8945_print_ready.pdf [Accessed on 31/07/2018]

¹⁵ Department of Communities and Local Government, Updated 18 06 2015, "Guidance Renewable and Low Carbon Energy". Available online at: <http://planningguidance.planningportal.gov.uk/blog/guidance/renewable-and-low-carbon-energy/> [Accessed on 31/07/2018]

Energy and Climate Change provide a useful starting point. These set out the impacts particular technologies can give rise to and how these should be addressed.

In shaping local criteria for inclusion in Local Plans and considering planning applications in the meantime, it is important to be clear that:

- *the need for renewable or low carbon energy does not automatically override environmental protections;*
- *cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases;*
- *local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;*
- *proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;*
- *protecting local amenity is an important consideration which should be given proper weight in planning decisions.*

65. PPG paragraph 013 goes onto identify particular planning considerations for large scale solar ground mounted solar photovoltaic farms. These include encouraging large scale solar farms on previously developed and non-agricultural land (provided that it is not of high environmental value); where a proposal includes greenfield land, whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
66. PPG paragraph 013 also identifies that planning conditions should be used to ensure land restoration, and the need to consider impacts from glint and glare, security, conservation of heritage assets, landscape and visual impacts and energy generating potential, as further considerations.

6.5.3 Committee on Climate Change: 2017 Report to Parliament – Meeting Carbon Budgets: Closing the policy gap¹⁶

67. The Committee on Climate Change's ninth annual assessment of the UK progress in reducing emissions and meeting carbon budgets highlights that the UK greenhouse gas emissions are about 42% lower than in 1990 baseline; that is around half way to the 2050 commitment to reduce emissions by at least 80% on 1990 levels. The report suggests that good progress has been made so far, nonetheless it is stalling, as it is largely confined to the power sector, and further actions are required to meet the emission reduction targets.
68. The report suggests that there should be continuous support for 'signing contracts to deliver a greater proportion of the UK's energy from renewable sources.' Investment in solar power is essential part of tackling climate change through the reduction of CO₂ emissions, as solar power is a free source of energy and does not require any drilling,

¹⁶ Committee on Climate Change (2017) Report to Parliament – Meeting Carbon Budgets: Closing the policy gap

heavy physical and chemical processing, or transportation. As such, the impact of solar development leaves a minimal impact on the environment whilst securing reliable electricity supply.

6.5.4 Energy Storage Drivers

69. There is a focus at international, European and national level on how the UK can deliver secure, clean and affordable electricity to consumers. The UK is legally bound through the Climate Change Act (2008) to reduce carbon emissions and through Renewable Energy Directive 2009/28/EC to increase electricity consumption from renewable resources. Energy storage facilities, such as the Development, will play an important role in achieving this.
70. Users of the UK electricity system have historically been:
- Generators (producers of electricity);
 - Consumers (users of electricity); or
 - Interconnectors (transfer electricity between the UK system and other countries).
71. Energy storage does not fit within the three categories above. It imports electricity, stores it for a period of time, and then exports it.
72. Following on from a number of successful trials and demonstration projects, advances in the technology and reductions in the cost of batteries have seen battery storage projects become viable in the UK. There are a number of benefits of battery storage which deliver an overarching purpose of increasing grid stability and providing a secure supply of electricity.
73. The use of energy storage can avoid costly grid infrastructure upgrades or reinforcement works. It was reported in the Committee on Climate Change Report¹⁷ that significant cost savings for consumers will be delivered by the deployment of energy storage.
74. A report by the National Infrastructure Commission¹⁸ (in 2016) estimates that smart power systems in the UK, which include energy storage *"could save consumers up to £8 billion a year by 2030, help the UK meet its 2050 carbon targets and secure the UK's energy supply for generations"*.
75. Another report produced for the Committee on Climate Change in 2015¹⁹ finds that technologies which provide flexible solutions, such as energy storage, *"will be essential for managing the costs associated with integrating low carbon plant onto the power system and achieving high levels of decarbonisation"*.

6.5.5 Swale Borough Council, Renewable Energy Planning Guidance

76. "Note 2 - The Development of Large Scale (>50 kW) Solar Arrays" (July 2014)²⁰ provides a planning advice note that sets out a variety of planning application considerations, including advice on the assessment of the impact on agricultural land

¹⁷Committee on Climate Change (2015) *Progress Report to Parliament: Reducing Emissions and preparing for Climate Change* [online] Available at: <https://www.theccc.org.uk/publication/reducing-emissions-and-preparing-for-climate-change-2015-progress-report-to-parliament/> Accessed 08/08/18

¹⁸ UK Government (2016) *Smart Power: A National Infrastructure Commission Report* [online] Available at: <https://www.gov.uk/government/publications/smart-power-a-national-infrastructure-commission-report> Accessed 08/03/18

¹⁹ Committee on Climate Change (2015) *Policy Implications: System Integration Costs for alternative low carbon generation technologies* [online] Available at: <https://www.theccc.org.uk/publication/system-integration-costs-for-alternative-low-carbon-generation-technologies-policy-implications/> Accessed 08/08/18

²⁰ Swale Borough Council, July 2014, "Renewable Energy Planning Guidance Note 2 The Development of Large Scale (>50kw) Solar Arrays", Available on line at <http://archive.swale.gov.uk/assets/Planning-General/Planning-Policy/Evidence-Base/VERSION-3-SWALE-LARGE-SCALE-SOLAR-PV-PDF-July-2014.pdf> [Accessed on 31/07/2018]

and provides case studies. This document, although it advises that it will guide decision makers when determining applications, has not been through public consultation and does not have the status of SPD.

6.5.6 Renewable Energy for Kent: An Action Plan for Delivering Opportunities 2013-2018²¹²²

77. The Renewable Energy for Kent Report and Action Plan is based on a study carried out by AECOM and takes forward actions recommended by the County Council's Renewable Energy Select Committee and the priorities set out in the Kent Environment Strategy. The actions set out in the plan can assist LPAs in dealing with the requirements of the NPPF and the introduction of 'allowable solutions' linked to zero carbon development.
78. The Report highlight that Renewable Energy is now an integral and growing part of the energy mix. It identifies that national targets are instrumental in the uptake of renewables, noting the UK's target to reduce greenhouse gas emissions by 34% by and a binding European Union target requiring 15% of the UK's total energy demand being sourced renewably, both by 2020. It is also noted that there is a commitment in Kent for a 60% reduction in carbon emissions on 1990 levels by 2030.
79. The report identifies actions across a range of low carbon and renewable technologies. It is recognised that there are many technologies that have to be addressed through the activities in the plan. The popularity of large scale solar farms as a deliverable development is noted in the report.

²¹ Kent County Council (2012) Renewable Energy for Kent [online] Available at: https://www.kent.gov.uk/_data/assets/pdf_file/0003/11955/Kent-Renewable-Energy-Part-1-April-2012-Updated-Version-Final.pdf

²² Kent County Council (2012) Renewable Energy for Kent [online] Available at: https://www.kent.gov.uk/_data/assets/pdf_file/0020/11954/Renewable-Energy-Action-Plan-August-2013.pdf