

THE ADOPTION OF NPF4

TNEI's planning team provides a briefing note to detail the key national planning policy changes since the adoption of NPF4.

Introduction

This Briefing Note has been prepared by TNEI to detail the key national planning policy changes since the adoption of NPF4, with a particular focus on the Renewable Energy industry. The implications and consequences of these changes for how the planning system operates moving forward are also covered.

NPF4 is a long-term spatial plan for Scotland which sets out where development and infrastructure is needed and provides land use policy for development and investment in Scotland to assist in achieving net zero, sustainable development by 2045.

The first draft NPF4 was laid before Scottish Parliament in November 2021 and a revised draft was presented in November 2022. The Scottish Parliament voted to approve the revised NPF4 in whole on 11 January 2023 and on 13 February 2023 NPF4 was formally adopted, superseding the SPP and becoming part of the statutory Development Plan. Thus NPF4 exerts a profound influence on all planning matters within Scotland.

NPF4 constitutes one of the most significant changes in Scotland's planning system since its first implementation, both in terms of structural changes and in terms of policy context and content.

Structural Changes

For the first time, the national spatial plan and national planning policy have been brought together in the same document. In terms of the structure of development planning, arguably the most pertinent change is that NPF4 is now the primary material consideration for planning decisions in Scotland. NPF4 now supersedes NPF3 and the SPP. As well as this, all Strategic Development Plans (and any associated supplementary guidance) have ceased to have effect. These should therefore no longer be considered when determining planning applications. The statutory Development Plan now consists of NPF4 and the relevant LDP (and any relevant supplementary guidance). Regional Spatial Strategies are going to be being introduced in due course, however there is currently ambiguity around what these will hold. LDPs already adopted by local authorities will continue to remain valid and part of the Development Plan, although no these will no longer form the primary material consideration.



Policy Changes

The Climate and Nature Crises ('Twin Crises') have been positioned front and centre of NPF4 and how planning is expected to operate. NPF4 clearly focuses on tackling biodiversity loss and addressing climate change in planning decisions, with Policy 1 – Tackling the Climate and Nature Crises as the key driver of this agenda, closely supported by Policy 3 – Biodiversity. (Policy 11 – Energy is also supportive but is considered separately in Section 1.3.1 below).

Policy 1 directs that that “significant weight” should be given to the matters of the climate change emergency and nature crisis when considering “all development proposals” (emphasis added) and puts its intent and policy outcome of “zero carbon, nature positive places” at the heart of the document. The climate emergency has therefore undoubtedly been re-positioned as a priority in all plans and planning decisions.



Nonetheless, NPF4 offers little direction regarding how applicants should demonstrate compliance to Policy 1. Some technical considerations related to addressing the climate emergency are often already considered in planning thus Policy 1 may merely require such considerations to be more heavily emphasised moving forward. Conversely, the increased emphasis on the twin crises could require applicants to undertake new tests to demonstrate that they address the climate emergency. This will remain an unknown until new LDPs are produced and until planning applications are assessed under NPF4. Furthermore, the question of weight ultimately lies with the decision-maker, so Policy 1 will not be relevant nor applied to every situation: there will be cases where a

balancing act will be required which attributes more weight to other policies over Policy 1, despite its heightened prominence.

Linked to tackling the Nature Crisis, significant focus is placed on protecting and enhancing biodiversity throughout NPF4, specifically through Policy 3 – Biodiversity. Policy 3 is applicable across different sectors and different development scales and types, however, how it is to be applied can vary: measures should be “proportionate” to each proposal. There is a clear policy shift from compensation to enhancement with regards to biodiversity. NPF4 emphasises needing to turn biodiversity levels in an upward trajectory, necessitating that a site’s biodiversity position is improved after development rather than any biodiversity losses merely being offset. Nevertheless, it is important that applicants remember that the planning sector has been dealing with biodiversity improvements in applications for a while; they are just receiving a stronger policy prominence now and will hopefully not considerably impact how applications are prepared moving forward.

Notably, NPF4 does not set specific targets nor offer advice on what constitutes as acceptable biodiversity gain nor how applicants can demonstrate compliance with Policy 3. Guidance is required on this matter and is expected from the Scottish Government in Autumn 2023. Until that point where a methodology is proposed/accepted there is likely to be uncertainty for developers and the assessment of whether sufficient gain has been met will be left to the decision maker.

National Developments

Under the National Spatial Strategy within NPF4, 18 National Developments have been defined. The third NAD is “Strategic Renewable Electricity Generation and Transmission Infrastructure”, described as “support[ing] electricity generation and associated grid infrastructure throughout Scotland, ...helping to reduce emissions and improve security of supply”. All forms of renewable electricity generation - including energy storage - exceeding 50 MW capacity are now defined as NAD across all of Scotland which positions such development as nationally significant and places them as a focus for NPF4’s overall delivery.

NPF4 and Renewables

Policy 11 - Energy

NPF4 is undoubtedly progressive for renewable energy, taking a much more pro-renewable stance than previous national planning policy, primarily through Policy 11 – Energy. The policy intent of Policy 11 is to “encourage, promote and facilitate all forms of renewable energy development” including “energy generation, storage, new and replacement transmission and distribution infrastructure”. The policy states how “proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported” with the only exception to this being development for wind farms in National Parks and National Scenic Areas.

Policy 11 also affirms that “significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets”. This exemplifies substantial policy support for larger scale renewable energy developments as NPF4 explicitly recognises the importance of hitting national targets to combat climate change. Policy 11 is significantly different from the previously adopted SPP as it removes a lot of the policy hurdles and obstacles which have encumbered renewable energy development in the past. Ultimately, Policy 11 (in combination with Policy 1) is advocating that, so long as the site-specific environmental impacts of a project are within acceptable limits, all renewable energy projects should be consented.

Biodiversity

The aforementioned change in biodiversity policy intent from mitigation to enhancement should not massively impact renewable energy developments as the industry is already well versed in offering enhancement and integrating it into development schemes. Furthermore, some technologies including wind and solar development offer lots of potential for biodiversity enhancement through the minimal total developable land used within red line boundaries. Nonetheless, the uncertainties raised regarding how biodiversity gain will be measured will still remain in question for renewable developments until guidance is produced. Questions are also notable around repowering and life-time extensions developments, for example, how a baseline for biodiversity will be established for existing development and thus how future biodiversity enhancements will be proven.

Landscape

The landscape considerations of renewable energy projects have undoubtedly shifted as the only specific restriction in Policy 11 is that wind farm developments cannot be sited in NPs and NSAs. Furthermore, Policy 4 – Natural Places explicitly supports, in principle, renewable energy development in Wild Land Areas which would support in meeting renewable energy targets and the policy removes buffer zones to WLA for renewable developments. Previous national policy almost completely blocked wind development in WLA, thus, lifting this policy restriction will increase Scotland’s site availability (as projects are resurrected which previously were unacceptable in terms of landscape). Nevertheless, Policy 4 does not say WLA Assessments will not be needed for renewable energy developments.

Policy 11 also recognises that “significant landscape and visual impacts ...are to be expected for some forms of renewable energy” (emphasis added). This section continues to say that “where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable”. The Scottish Government is dictating that local authorities should not be restrictive to renewable energy development and shows they believe renewable energy to be important enough that policy should not be developed to stand in its way.

Soils

Policy 5 – Soils also offers a more positive policy context for renewable development, stating that development proposals on prime agricultural land will only be supported where it is for, amongst other things, “the generation of energy from renewable sources”. This is particularly positive for solar and battery developments which are often located on land of high agricultural quality. TNEI has prepared a more detailed technical briefing note covering all key aspects of the changes and implications of NPF4, which can be made available upon request by contact megan.barrie@tneigroup.com.

Implications and Consequences

Uncertainty has emerged around how planning applications will be assessed and how LDPs will be developed moving forward under NPF4.

Although NPF4 has been outlined as particularly supportive of renewable energy development, various factors may effectively impede its successful implementation in practice, namely understanding the weight to be afforded to Policy 1 and issues around public sector resourcing. It will likely take time for local authorities and stakeholders to get to grips with the new NPF4 policies and to implement them in the most appropriate manner, as well as updating and preparing new LDPs in response to the paradigm shift resulting from NPF4’s adoption.

While NPF4 is the first time that significant weight is explicitly to be afforded to contribution to energy targets in national planning policy, some local authorities will argue that they had already been giving it significant weight. If so, applicants will need to convince them that even more weight than previously afforded is needed. It could also take time for local authorities to understand the new interface between NPF4 policies and LDP policies. In such instances, it will be the applicant’s responsibility to emphasise that NPF4 is now the primary material consideration in planning decisions and that in the event of any incompatibility between a NPF4 provisions and LDP provisions, whichever of them is the later in date is to prevail.

Secondly, the resourcing of the planning system has been widely recognised as one of the biggest threats to the deliverability of NPF4. Without the appropriate staffing, applications which are submitted either cannot be determined or the timescales for determination will be significantly prolonged. As applicants, comprehensive and completed applications should be prepared to make the decision-makers’ jobs as quick and easy as possible, thus allowing decisions to be reached in a timely manner.

Further Information

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