



Preliminary Environmental Information Report

Chapter 4: Legislation & Policy

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Contents

	PEIR Chapters [PINS Ref: EN010171]	a
4.0	Legislation and Policy	3
4.1	Introduction	3
4.2	Overarching National Policy Statement for Energy (EN-1) (REF 4-2).....	4
4.3	National Policy Statement for Renewable Energy Infrastructure (EN-3) (REF 4-3).....	5
4.4	National Policy Statement for Electricity Networks Infrastructure (EN-5) (REF 4-4)	6
4.5	Relationship of National Policy Statements with Welsh policies	6
4.6	Welsh Planning Policy.....	7
4.7	Future Wales: The National Plan 2040 (REF 4-5).....	7
4.8	Planning Policy Wales (Edition 12, February 2024) (REF 4-6)	8
4.9	Technical Advice Notes	9
4.10	TAN 5: Nature Conservation and Planning (REF 4-7)	10
4.11	TAN 11: Noise (REF 4-8).....	10
4.12	TAN 15: Development, Flooding and Coastal Erosion (REF 4-9)	10
4.13	Local Policy	12
4.14	References.....	14

4.0 Legislation and Policy

4.1 Introduction

4.1.1 This Chapter of the Preliminary Environmental Information Report (PEIR) describes the legislation and policy context that is relevant to the Proposed Development.

4.1.2 The Planning Act 2008 (REF 4-1) provides the legislative basis and defines the application process under which consent for Nationally Significant Infrastructure Projects (NSIP) are sought. The Act sets out that projects meeting certain defined criteria are classified as NSIPs and in this instance the Proposed Development is defined as an NSIP under Section 14(1)(a) of the and 15(3A) of the Planning Act 2008 (as amended) (REF 4-1) as it comprises the construction of an onshore generating station with a capacity of more than 350MW in Wales).

4.1.3 In accordance with Section 104(2) of the Planning Act 2008, National Policy Statements (NPS) set out the policy basis for qualifying NSIP developments and provide the primary basis for making decisions on development consent order applications for 'nationally significant infrastructure projects' (NSIPs). There are currently six NPSs covering the Energy sector. The most relevant statements to the Proposed Development are:

- Overarching NPS for energy (EN-1) (REF 4-2)
- NPS for renewable energy infrastructure (EN-3) (REF 4-3)
- NPS for electricity networks infrastructure (EN-5) (REF 4-4)

4.1.4 On the 24 April 2025, the Government launched a consultation to revise the National Policy Statements. The consultation closed on the 29 May 2025. The Government have confirmed that the updated NPSs will be published by the end of 2025.

4.2 Overarching National Policy Statement for Energy (EN-1) (REF 4-2)

- 4.2.1 NPS EN-1 sets out national policy for delivery of major energy infrastructure, which includes renewable electricity generation.
- 4.2.2 It has effect for the decision by the Secretary of State on applications for energy developments that are nationally significant under the Planning Act 2008. This NPS combined with any technology specific energy NPS, provides the primary policy for decisions by the Secretary of State.
- 4.2.3 NPS EN-1 underscores the critical and urgent need for low-carbon energy infrastructure, as essential components of the nation's strategy to achieve a secure, reliable and affordable net zero energy system by 2050.
- 4.2.4 NPS EN-1 asserts that the Secretary of State should prioritise the approval of nationally significant infrastructure projects, recognising the significant benefits these projects bring. Despite potential adverse impacts, the policy mandates a strong presumption in favour of granting consent.
- 4.2.5 Furthermore, the policy highlights the necessity of comprehensive environmental assessments and the inclusion of biodiversity benefit in project planning. Whilst it affords protection to Sites of Special Scientific Interest (SSSI), it does stipulate allowance for developments where the benefits clearly outweigh the impacts.
- 4.2.6 The updated NPS EN-1 is currently under Government review, but the draft NPS confirms the Government's intention to put the Clean Energy Action Plan central to EN-1.
- 4.2.7 In conclusion, the published and proposed draft NPS EN-1 reflects the Government's strong support for advancing low-carbon energy projects swiftly, given their vital role in national security, economic growth and environmental sustainability. The policy sets a clear directive that the need for such infrastructure will generally outweigh residual

adverse effects, reinforcing the UK Government's commitment to a cleaner, more resilient energy future.

4.3 National Policy Statement for Renewable Energy Infrastructure (EN-3) (REF 4-3)

- 4.3.1 The NPS (EN-3), when combined with the overarching NPS (EN-1), forms the primary policy framework for the Secretary of State's decision-making on nationally significant renewable energy projects. The Policy clearly sets out the urgent need for new electricity generating capacity to meet the UK's energy objectives. Government analysis indicates a potential doubling of electricity demand by 2050.
- 4.3.2 For projects exceeding 350MW in Wales, such as the Proposed Development, the application will be examined by the Secretary of State.
- 4.3.3 The need for flexibility in project details is acknowledged in NPS EN-3, but there is a requirement to assess the worst-case environmental, social and economic impacts.
- 4.3.4 Solar energy is highlighted as a key component of the Government's low-cost decarbonisation strategy, with expectations for a five-fold increase in solar deployment by 2035.
- 4.3.5 The NPS recognises there will be inevitable impacts on rural areas due to the extensive land requirements for solar farms.
- 4.3.6 The NPS expresses a preference for poorer agricultural land, avoiding BMV land.
- 4.3.7 In conclusion, the NPS underscores the critical and urgent need for renewable energy, including solar, to meet the UK's decarbonisation targets. The draft updated NPS EN-3 continues to focus on the importance of solar and reinforce the new focus on the Clean Power 2030 Action Plan.

4.4 National Policy Statement for Electricity Networks Infrastructure (EN-5) (REF 4-4)

- 4.4.1 NPS EN-5 is a technology specific NPS that focusses on infrastructure for electricity networks, including, transmission systems (overhead and underground) as associated infrastructure such as substations and converter stations.
- 4.4.2 Along with NPS EN-1 it should therefore be considered as the main policy foundation for decisions on electricity network infrastructure DCO applications.
- 4.4.3 However, it is worth noting that the Proposed Development makes use of existing infrastructure to allow for the management and conveyance of power that it would generate. Paragraph 3.63 of PPW states that *“development should be well located so it can be well serviced by existing infrastructure.”*
- 4.4.4 NPS EN-5 will be updated by the end of 2025 and will also provide a focus on the Clean Power 2030 Action Plan

4.5 Relationship of National Policy Statements with Welsh policies

- 4.5.1 The NPS's establish the primary policy framework for Nationally Significant Infrastructure Projects, whilst acknowledging the relevance of regional planning documents and guidance in Wales. These NPSs have incorporated considerations from Future Wales, Planning Policy Wales and their associated Technical Advice Notes.
- 4.5.2 Due consideration will be given to Future Wales the National Development Framework for Wales, Planning Policy Wales and Technical Advice Notes, especially given the sites location in Flood Zone 3 / TAN15 Defended Zone and across three SSSI areas. While these documents provide valuable guidance, in cases of conflict between these policy documents and the NPSs, the NPSs prevail due to the national significance of the projects.

4.6 Welsh Planning Policy

4.6.1 As the Site is located in Wales the relevant sections of Future Wales, the Environment Wales Act (2016), Planning Policy Wales (Edition 12) and the associated Technical Advice Notes are also material considerations. These are set out below.

4.7 Future Wales: The National Plan 2040 (REF 4-5)

4.7.1 *Future Wales – The National Plan 2040* is Wales’s National Development Framework (NDF), setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system. The introduction states that we are facing a “*climate emergency which is actively changing our environment and directly affecting communities*”. It also states that we are facing an ecological emergency which will be exacerbated by the Climate Emergency.

4.7.2 Future Wales is the highest tier of development plan in Wales and is focussed on solutions to issues and challenges at a national scale. It is a framework that will be built on by Strategic Development Plans at a regional level and Local Development Plans at local authority level.

4.7.3 The key policies of relevance that will be considered in the assessment of the Proposed Development are:

- Policy 9 (Resilient Ecological Networks and Green Infrastructure) focuses on enhancing biodiversity and resilience of ecosystems, urging safeguarding and creation of ecological networks and maximising green infrastructure through nature-based solutions.
- Policy 17 (Renewable and Low Carbon Energy and Associated Infrastructure), it emphasises the Welsh Government’s support for developing renewable and low carbon energy at all scales to meet future energy needs, stressing significant weight on renewable energy to meet international commitments and the target of generating 70% of consumed electricity by renewable means by

2030.

- Policy 18 (Renewable and Low Carbon Energy Developments of National Significance) relates to Developments of National Significance (DNS). These policies are nonetheless material to the application and will be picked up in the DCO process.

4.8 Planning Policy Wales (Edition 12, February 2024) (REF 4-6)

- 4.8.1 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs).
- 4.8.2 Section 3 of PPW covers strategic and spatial choices, specifically highlighting the importance of conserving Best and Most Versatile (BMV) agricultural land, which includes grades 1, 2, and 3a. Paragraphs 3.58 and 3.59 emphasize the protection of these lands from development, permitting it only if there is an overriding need and no suitable alternative land of lower quality.
- 4.8.3 Section 5 addresses productive and enterprising places, including energy policies. Paragraph 5.7.1 stresses the necessity of low carbon electricity as Wales' primary energy source, integrating various low carbon technologies. It acknowledges the increasing power demand and the need for significant investment in energy infrastructure to meet future needs, integrating renewable generation. Paragraph 5.7.3 underscores the importance of reducing carbon emissions and enhancing the well-being of Welsh communities, aligning with Welsh, UK, and European renewable energy targets.
- 4.8.4 PPW sets ambitious renewable energy targets, aiming for Wales to generate 70% of its electricity from renewable sources by 2030, with at least one gigawatt of renewable capacity locally owned. Welsh Government supports projects that benefit local communities, as outlined in their February 2020 policy statement on local ownership

of energy developments.

- 4.8.5 Paragraphs 6.2.11 and 6.2.12 promote integrating green infrastructure into developments through appropriate site selection and design, requiring green infrastructure statements with planning applications. Section 6.4 focuses on biodiversity and ecological networks, following a step-wise approach to avoid, minimize, mitigate, and compensate for adverse environmental effects, ensuring net benefits for biodiversity and ecosystem resilience.
- 4.8.6 PPW mandates the protection and management of designated sites, including Sites of Special Scientific Interest (SSSIs), to maintain their ecological functions. Paragraphs 6.4.24 to 6.4.28 highlight the national importance of SSSIs and the duty to conserve their features. Development within or affecting SSSIs is generally presumed against, except for necessary management activities. Planning authorities must consider NRW advice and notify Welsh Ministers if they intend to grant permission against such advice.
- 4.8.7 The policy allows for development necessary for the management of SSSIs to ensure their role in resilient ecological networks. It does not define specific types of necessary development, instead requiring case-by-case assessments. There is a presumption against unnecessary development within SSSIs, and the policy does not specify conditions for exceptional circumstances, leaving room for interpretation based on individual cases.

4.9 Technical Advice Notes

- 4.9.1 As has been set out above, PPW is supported by a series of Technical Advice Notes (TANs). TANs provide detailed planning advice on specific topics. Of relevance to the Proposed Development are:

- TAN 5: Nature Conservation and Planning (Sept 2009) (REF 4-7)
- TAN 11: Noise (Oct 1997) (REF 4-8)

- TAN 15: Development, Flooding and Coastal Erosion (March 2025) (REF 4-9)

4.10 TAN 5: Nature Conservation and Planning (REF 4-7)

- 4.10.1 Technical Advice Note 5 (TAN 5) provides advice on how the land use planning system should aid in the protection and enhancement of biodiversity and geological conservation. The TAN emphasises the importance of biodiversity conservation and enhancement in planning for sustainable development. It outlines the key legislative provisions for the protection of species.
- 4.10.2 A key principle of TAN 5 is the five point approach to decision making of "*information, avoidance, mitigation, compensation and new benefits*." This means that potential harm to biodiversity should first be avoided wherever possible. If avoidance is not feasible, steps should be taken to mitigate any adverse impacts. Finally, any residual impacts should be compensated for to ensure no net loss of biodiversity. This approach aligns with the precautionary principle, favouring decisions that minimise risks to ecosystems, especially in cases of uncertainty.

4.11 TAN 11: Noise (REF 4-8)

- 4.11.1 Technical Advice Note 11 (TAN 11) provides guidance on how the planning system in Wales should address issues related to noise. The primary aim is to ensure that noise considerations are effectively integrated into the planning process to safeguard public health and well-being while promoting sustainable development.

4.12 TAN 15: Development, Flooding and Coastal Erosion (REF 4-9)

- 4.12.1 Technical Advice Note 15 (TAN 15) provides technical guidance which supplements the policies set out in Future Wales and PPW in relation to flooding and coastal erosion. The TAN provides a framework to assess flood risk from rivers, the sea, surface water and coastal erosion in Wales.

4.12.2 Section 4 of the TAN confirms that The Flood Map for Planning and the Flood Risk Assessment Wales (FRAW) map make up the Wales Flood Map.

4.12.3 The TAN explains that *“The Flood Map for Planning uses flood zones to indicate the degree to which land is at risk of flooding from rivers, the sea, surface water and small watercourses. This TAN outlines the actions that should be taken when considering development in different flood zones. Zone 1, and Zones 2, 3 and the TAN 15 Defended Zones are collectively referred to as ‘flood risk areas’ throughout the TAN.”* It is noted that the Proposed Development is located within Flood Zone 3 and a TAN15 Defended Zone.

4.12.4 TAN15 Defended Zone are areas shown on the Flood Map for Planning as *“benefitting from, formal flood defences managed or maintained by Risk Management Authorities.”*

4.12.5 Paragraph 4.5 of the TAN specifically states that:

“The existence of flood defences does not mean development should be allowed without further consideration of flood risks. Flood defences reduce the risk of flooding but do not eliminate it. The consequences of flooding can be particularly severe in the event of defences being overtopped or breached. TAN 15 Defended Zones are served by defences that provide protection from at least one of the main sources of flooding – sea or river, or both in some instances. Some areas within the TAN 15 Defended Zones may be vulnerable to other sources of flood risk therefore it will be important to assess all sources of risk. It will also be important to demonstrate that any new development in the TAN 15 Defended Zones incorporates resilience and resistance measures so that it remains flood-free and safe and responds appropriately to the content of Flood Consequences Assessment.”

4.12.6 Section 9 considers vulnerability to flooding by development type. The TAN includes three vulnerability categories: The different categories are Highly Vulnerable Development, Less Vulnerable Development and Water Compatible Development.

4.12.7 TAN 15 goes on to define the categories as follows:

Highly vulnerable development – *“is development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited. It also includes those industrial uses where there would be an attendant risk to the public and the water environment should the site be inundated. Emergency services and local authority command centres need to be operational and accessible at all times and are therefore also considered highly vulnerable.”*

Less vulnerable development – *“is development where the ability of occupants to decide if risks and consequences are acceptable is greater than that in the highly vulnerable category.”*

Water compatible development – *“include developments which are required to be located near water by virtue of their nature, and developments which are resilient to the effects of occasional flooding.”*

4.12.8 Section 10 considers flooding and the plan led system. For sites such as the Proposed development which are located within *Zone 3 and TAN 15 defended zone “developers must undertake a flood consequences assessment (FCA) proportionate to the nature and scale of the proposal.”* Therefore, an FCA will need to fully justify the Proposed Development within Flood Zone 3 and the TAN15 Defended Zone.

4.13 Local Policy

Newport Local Development Plan 2011-26 (January 2015) (REF 4-10)

4.13.1 The Local Development Plan (LDP) is the development plan for Newport and is the basis for land use planning within the Council’s administrative area.

4.13.2 The key policies of relevance to the Proposed Development are:

- Policy CE10 (*Renewable Energy*)

- Policy GP5 (General Development Principles – Natural Environment).

4.13.3 Newport City Council are in the process of preparing a replacement Local Development Plan (REF 4-11). The Council are currently in the process of agreeing a new Delivery Agreement which will set the timescales for how the Replacement Local Development Plan moves forward.

Monmouthshire County Council Adopted Local Development Plan (February 2014) (REF 4-12)

4.13.4 The Adopted LDP (2011-2021) was adopted in February 2014. The adopted LDP constitutes the development plan for the area and forms the basis for decisions in the determination of planning applications and appeals.

4.13.5 The key policy of relevance is:

- Policy SD1 (*Renewable Energy*).

4.13.6 It should also be noted that Monmouthshire County Council are at an advanced stage of preparing a Replacement Local Development Plan which will set out the detailed policy framework and land use allocations for Monmouthshire up to 2033 (REF 4-13). On the 25th October 2025, Monmouthshire County Council approved the submission of the Replacement Local Development Plan (Deposit Plan) to Welsh Government (WG) and Planning and Environment Decision Wales (PEDW) for independent examination. Now that the Replacement LDP (Deposit Plan) is now with WG and PEDW the policies contained within the document will have significant weight for planning decisions.

4.13.7 The key policy within the Deposit RLDP is:

- Policy CC3 (Renewable Energy Generation).

4.14 References

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- REF 4-2 Department for Energy Security and Net Zero (2024) *Overarching national policy statement for energy (EN-1)*, *GOV.UK*. Available at: <https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1> (Accessed: October 2025)
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- REF 4-10 Newport City Council (2025) Newport Local Development Plan (2011-2026) Adopted Plan, January 2015. Available at <https://www.newport.gov.uk/planning/planning-policy/local-development-plan/local-development-plan-adoption> (Accessed: October 2025).
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REF 4-12 Monmouthshire County Council (2025) Monmouth Adopted Local Development Plan (2011-2021) Adopted February 2014. Available at <https://www.monmouthshire.gov.uk/planning-policy/monmouthshire-local-development-plan/> (Accessed October 2025).

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