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## 5. Legislative and policy overview

### 5.1 Introduction

5.1.1 This section of the Draft ES outlines the relevant UK wide and Welsh legislative and policy framework for the development of renewable energy schemes. Current legislation, national policies, and local policy and guidance recognise climate change as a pressing concern. The approach taken by the UK and Wales to addressing climate change has been shaped and informed by a range of international agreements and climate change obligations including the Kyoto Protocol, the Paris Agreement and the 2021 Glasgow Climate Compact reflecting the UK's role as a signatory to the United Nations Framework Convention on Climate Change (UNFCCC). This section sets out the climate and energy considerations that proposals should have regard to.

### 5.2 Legislative context

5.2.1 This section firstly sets out the international agreements that the UK government is a signatory to. It then outlines the key Acts of Parliament and regulations that set out the legislative framework for consideration of renewable energy schemes. It then sets out the national strategies and policies for renewable energy that set the UK wide and Welsh national agenda for renewable energy generation.

#### International agreements

##### Paris Agreement 2015<sup>1</sup>

5.2.2 The UNFCCC is the major international body responsible for managing climate change and carbon emissions. In 2015, parties to the UNFCCC adopted the Paris Agreement, the aims of which are stated as: *"This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by: a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; and (b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production."* The agreement sets targets for countries' greenhouse gas (GHG) emissions, but these are not legally binding or enforceable.

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<sup>1</sup> United Nations Framework Convention on Climate Change (2015). Paris Agreement. (Online) Available at: [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf) (Accessed April 2022).

## Glasgow Climate Pact 2021<sup>2</sup>

5.2.3 The recent Conference of the Parties (COP 26) under the UNFCCC held in Glasgow in November 2021, resulted in almost 200 countries agreeing on: the acceleration of action on climate change this decade to reduce emissions (mitigation); helping those already impacted by climate change (adaptation); enabling countries to deliver on their climate goals (finance); and working together to deliver even greater action (collaboration). This agreement is in the form of the Glasgow Climate Pact which reaffirms the long-term goal to limit global warming to 1.5°C above pre-industrial levels and resolves to pursue efforts to achieve this, recognising that limiting global warming to 1.5°C *"requires rapid, deep and sustained reductions in global greenhouse gas emissions, including reducing global CO<sub>2</sub> emissions by 45% by 2030 relative to the 2010 level and to net zero around mid-century, as well as deep reductions in other greenhouse gases"*.

## Acts of Parliament and regulations

### Climate Change Act 2008 (as amended)<sup>3</sup>

5.2.4 One of the key provisions of the original 2008 Act was the introduction of legally binding targets on GHG emissions comprising reductions of at least 80% GHG emissions by 2050, and reductions in emissions of at least 26% by 2020, against a 1990 baseline. The Climate Change Act 2008 (2050 Target Amendment) Order 2019<sup>4</sup> came into force on 27 June 2019. This amended the legally binding target to reduce GHG emissions set in section 1 of the Climate Change Act 2008 from 80% to 100% against a 1990 baseline, achieving 'net zero' emissions. The Act also requires the Government to establish 5-year carbon budgets. The generation of electricity by renewable means such as wind energy is considered to be a key contributor towards meeting these targets.

### The Carbon Budgets Order 2009<sup>5</sup>

5.2.5 This legislation implements the carbon budgets set out in the Climate Change Act 2008. The budgets require the UK to continually reduce emissions in line with the carbon reduction commitments established under the Climate Change Act. The carbon budgets are:

- first carbon budget, 2009 to 2012, 3,018 mega tonnes carbon dioxide equivalent (MtCO<sub>2</sub>e) representing 25% reduction below 1990 levels;
- second carbon budget, 2013 to 2017, 2,782 MtCO<sub>2</sub>e representing 31% reduction below 1990 levels;

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<sup>2</sup> United Nations Framework Convention on Climate Change (2021). COP26 The Glasgow Climate Pact. (Online) available at: <https://ukcop26.org/wp-content/uploads/2021/11/COP26-Presidency-Outcomes-The-Climate-Pact.pdf> (Accessed April 2022).

<sup>3</sup> UK Government (2008). Climate Change Act 2008. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2008/27/contents> (Accessed April 2022).

<sup>4</sup> UK Government (2019). The Climate Change Act 2008 (2050 Target Amendment) Order 2019. (Online) Available at: <https://www.legislation.gov.uk/ukdsi/2019/9780111187654> (Accessed April 2022).

<sup>5</sup> UK Government (2009). The Carbon Budgets Order 2009 (Online) Available at: <https://www.legislation.gov.uk/uksi/2009/1259/contents/made> (Accessed April 2022).

- third carbon budget, 2018 to 2022, 2,544 MtCO<sub>2</sub>e representing 37% reduction below 1990 levels by 2020;
- fourth carbon budget, 2023 to 2027, 1,950 MtCO<sub>2</sub>e representing 51% reduction below 1990 levels by 2025;
- fifth carbon budget, 2028 to 2032, 1,725 MtCO<sub>2</sub>e representing 57% reduction below 1990 levels by 2030; and
- sixth carbon budget, 2033 to 2037, 965 MtCO<sub>2</sub>e representing a 78% reduction below 1990 levels by 2035.

### The Energy Act 2008<sup>6</sup>, 2011<sup>7</sup>, 2013<sup>8</sup>, 2016<sup>9</sup>

5.2.6 The Energy Act (2008) implemented the legislative aspects of the 2007 Energy White Paper. The content of the Bill included strengthening the Renewables Obligation to drive greater and more rapid deployment of renewables in the UK. The Energy Act (2011) sought to increase investment in energy efficiency whilst the Energy Act (2013) put in place measures to reform the UK energy market to attract investment. The Energy Act (2016) formally established the Oil and Gas Authority as a regulator for that sector whilst it signalled the closure of the Renewables Obligation for onshore wind.

### Well-Being of Future Generations (Wales) Act 2015<sup>10</sup>

5.2.7 This Act places a duty on public bodies (including Local Authorities) to carry out sustainable development. The Act puts in place seven well-being goals to help ensure that public bodies are all working towards the same vision of a sustainable Wales. The wellbeing goals are:

- a prosperous Wales;
- a resilient Wales;
- a healthier Wales;
- a more equal Wales;
- a Wales of cohesive communities;
- a Wales of vibrant culture and thriving Welsh language; and
- a globally responsible Wales.

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<sup>6</sup> UK Government (2008). Energy Act 2008. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2008/32/contents> (Accessed April 2022).

<sup>7</sup> UK Government (2011). Energy Act 2011. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2011/16/contents> (Accessed April 2022).

<sup>8</sup> UK Government (2013). Energy Act 2013. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2013/32/contents> (Accessed April 2022).

<sup>9</sup> UK Government (2016). Energy Act 2016. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2016/20/contents> (Accessed April 2022).

<sup>10</sup> UK Government (2015). Well-being of Future Generations (Wales) Act 2015. (Online) Available at: <https://www.futuregenerations.wales/wp-content/uploads/2017/02/150623-guide-to-the-fg-act-en.pdf> (Accessed April 2022).

- 5.2.8 The wellbeing goals act together to ensure outcomes across economic, environmental, social and cultural sustainability strands. The Act defines sustainable development in Wales as *"The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals."*
- 5.2.9 One of the wellbeing goals – achieving a prosperous Wales – specifically recognises the benefits of developing a low carbon society that recognises the limits of the environment and uses resources efficiently.

### Planning (Wales) Act 2015<sup>11</sup> and the Developments of National Significance (Wales) Regulations 2016 (as amended)<sup>12</sup>

- 5.2.10 The Planning (Wales) Act 2015 and the Developments of National Significance (Wales) Regulations 2016 (as amended) alongside subsequent regulations, provides the statutory basis for DNS. Any proposal to construct or operate a power generation scheme with a capacity greater than 10MW and under 350MW falls within the DNS system and requires the consent of Welsh Ministers.

### Environment (Wales) Act 2016 (as amended)<sup>13</sup>

- 5.2.11 The Environment (Wales) Act 2016 (as amended) places a duty on the Welsh Ministers to reduce GHG emissions in Wales by at least 100% in 2050<sup>14</sup>. The target of net zero emissions (rather than 80% as originally stated in the Act) reflects the Welsh Government's acceptance of the independent CCC recommendation<sup>15</sup> that Wales could achieve a net zero reduction in emissions, which had previously been considered unfeasible. The Environment (Wales) Act 2016 (as amended) requires Ministers to set a series of interim targets and five-year carbon budgets to achieve the 2050 target. For 2021-26 this stands at 37% reduction compared to the baseline and for 2026-30 this is set at an average of a 58% reduction<sup>16</sup>.

### Wales Act 2017<sup>17</sup>

- 5.2.12 The Wales Act 2017 sets out a number of changes to the model of devolution and provides further powers for the Welsh Government. Amongst its provisions, decisions are devolved for energy planning development consent for projects up to 350MW onshore

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<sup>11</sup> UK Government (2015). Planning (Wales) Act 2015. (Online) Available at: <https://www.legislation.gov.uk/anaw/2015/4/contents> (Accessed April 2022).

<sup>12</sup> UK Government (2016). The Developments of National Significance (Wales) Regulations 2016. (Online) Available at: <https://www.legislation.gov.uk/wsi/2016/56/contents> (Accessed April 2022).

<sup>13</sup> UK Government (2016). Environment (Wales) Act 2016. (Online) Available at: <https://www.legislation.gov.uk/anaw/2016/3/contents> (Accessed April 2022).

<sup>14</sup> The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021 changed the statutory target within the Environment Act from 80% to 100% and came into force on 12 March 2021.

<sup>15</sup> Climate Change Committee's (2020) The path to Net Zero and progress on reducing emissions in Wales.

<sup>16</sup> The Climate Change (Carbon Budgets) (Wales) (Amendment) Regulations 2021 amended the 2021-2025 carbon budget from an average reduction of 33% to 37% lower than the baseline and came into force on 19 March 2021. The regulations set the carbon budget for the 2026-2030 period and limit to an average of 58% lower than the baseline.

<sup>17</sup> UK Government (2017). Wales Act 2017. (Online) Available at: <https://www.legislation.gov.uk/ukpga/2017/4/contents> (Accessed April 2022).

and offshore in Welsh waters. The Act effectively removes the Secretary of State's power under the Planning Act 2008 to grant development consent in relation to electricity generating stations, up to those of 350MW (with no limit for onshore wind). Such projects are effectively transferred into the Town and Country Planning Act (TCPA) regime in Wales, if they are onshore.

### The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017<sup>18</sup>

- 5.2.13 The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (EIA Regulations) apply to applications falling under the DNS regime. The EIA Regulation Schedules define the applicability of the regulations. EIA development is defined as either:
- Schedule 1 development; or
  - Schedule 2 development, which is considered to be "*development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.*"
- 5.2.14 In the context of the Proposed Development, Schedule 2 is the relevant schedule. In particular, paragraph 3(i) ("*Installations for the harnessing of wind power for energy production (wind farms)*") provides the relevant thresholds against which the applicability of EIA regulations are assessed. The Proposed Development subject to this Draft ES qualifies as EIA development due to it being above the threshold for quantum (set at more than 2 turbines) and hub height (being more than 15 metres).
- 5.2.15 Schedule 4(3) sets out the requirements for the assessment to be included in the ES: "*A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.*"

## UK wide strategies and plans

### UK Renewable Energy Strategy (2009)<sup>19</sup>

- 5.2.16 The UK Renewable Energy Strategy (HM Government, 2009) outlined the UK's commitment to source 15% of energy from renewable sources by 2020, whilst reducing its fossil fuel consumption by 10% and gas imports by 20-30%. The aim was to generate more than 30% of the UK's electricity needs, 12% of its heating needs and 10% of its transport energy with renewables. The strategy puts in place the financial mechanisms necessary for the advancement of these goals with around £30 billion to be invested between 2009 and 2020. The Strategy was supported by the Renewable Energy Action Plan and Road Map which sought to increase onshore wind capacity.

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<sup>18</sup> UK Government (2017). The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. (Online) Available at: <https://www.legislation.gov.uk/wsi/2017/567/contents> (Accessed April 2022).

<sup>19</sup> HM Government (2009). The UK Renewable Energy Strategy. (Online). Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228866/7686.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228866/7686.pdf) (Accessed April 2022).

- 5.2.17 In 2020, 13.6% of final energy consumption in the UK was generated by renewables, below the 15% target. Of the total electricity generated, renewable electricity amounted to 43.1% (BEIS, 2021)<sup>20</sup> Digest of UK Energy Statistics (DUKES): renewable sources of energy).

### Clean Growth Strategy (2017)<sup>21</sup>

- 5.2.18 The key message of the Clean Growth Strategy (CGS): Leading the Way to a Low Carbon Future (BEIS, 2017) is that clean growth means growing our national income while cutting GHG emissions. The CGS sets out a comprehensive set of policies and proposals that aim to accelerate the pace of 'clean growth' i.e., deliver increased economic growth and decreased emissions. The Strategy draws on the UK's commitments under the Climate Change Act 2008 and the associated 'Carbon Budgets'.

### Industrial Strategy (2017)<sup>22</sup>

- 5.2.19 The Industrial Strategy entitled Building a Britain fit for the future (HM Government, 2017) aims to create an economy that boosts productivity and earning power throughout the UK. The Strategy identifies four 'Grand Challenges' that are set to put the UK at the forefront of the industries of the future and one of these is 'Clean Growth', including "*use of low carbon technologies, systems and services that cost less than high carbon alternatives*".

### National Infrastructure Strategy (2020)<sup>23</sup>

- 5.2.20 The National Infrastructure Strategy (HM Treasury, 2020) presents the UK Government's plans to deliver significant improvements to UK infrastructure which will enable economic growth and progress towards the net zero by 2050 ambition.
- 5.2.21 At page 51 the strategy recognises the need to increase capacity from onshore wind: "*To deliver net zero, the share of generation from renewables needs to dramatically increase. While the UK leads the world in the deployment of offshore wind, greater generation capacity will need to come from onshore wind and solar as well.*"

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<sup>20</sup> Department for Business, Energy and Industrial Strategy (BEIS) (2021). Digest of UK Energy Statistics (DUKES): renewable sources of energy.

<sup>21</sup> HM Government (2017). The Clean Growth Strategy. Leading the way to a low carbon future. (Online) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/700496/clean-growth-strategy-correction-april-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700496/clean-growth-strategy-correction-april-2018.pdf) (Accessed April 2022).

<sup>22</sup> HM Government (2017). Industrial Strategy. Building a Britain fit for the future. (online) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf) (Accessed April 2022).

<sup>23</sup> HM Treasury (2020). National Infrastructure Strategy. Fairer, faster, greener. (online) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/938539/NIS\\_Report\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938539/NIS_Report_Web_Accessible.pdf) (Accessed April 2022).

## Net Zero Strategy: Build Back Greener (2021)<sup>24</sup>

5.2.22 The Net Zero Strategy: Build Back Greener (BEIS, 2021) provides the overarching UK wide strategy to reach the UK's target for net zero emissions in 2050. The strategy set outs a delivery pathway to achieve net zero in 2050 with policies and proposals to keep the UK on track for emissions reductions targets to up to the sixth carbon budget covering the period 2033-2037. Amongst its policies, the strategy seeks to fully decarbonise the UK power system by 2035. Key to achieving this is the commitment to *"transform (the UK's) energy system away from fossil fuels to low carbon sources of energy, such as renewable electricity generated in the UK"* (page. 39).

## Welsh national strategies and plans

### A Low Carbon Revolution: Wales' Energy Policy Statement (2010)<sup>25</sup>

5.2.23 The Energy Policy Statement (EPS) set the objective for Wales to become a world leader in low carbon energy following consultation on the Energy Route Map. The EPS summarises the pressing arguments to tackle climate change highlighting that: *"unless we quickly reduce our emissions of greenhouse gases, the world will probably be another 3°C hotter by 2060 and there will be much higher risks of catastrophic global climate changes"*. The headline target contained within the EPS is *"to renewably generate up to twice as much electricity annually by 2025 as we use today"* (page 26). With regard to onshore wind the target identified is *"to have 4.5 kWh/d/p of installed onshore wind generation capacity by 2015/2017"* (page 14). It recognises that the average electrical power consumption per person per day in Wales is approximately 22 kWh/d/p, so this target represents 20% of electricity consumption coming from onshore wind within the seven years following publication (to 2017).

### The Climate Change Strategy for Wales (2010)<sup>26</sup>

5.2.24 This document sets out the Welsh Government's commitments to and strategy for managing climate change in Wales through reducing GHG emissions and enabling effective adaptation in Wales. The Strategy sets targets to reduce GHG emissions in Wales by 3% every year and achieve at least a 40% reduction by 2020 compared to figures from the 1990 baseline. The commitments have subsequently been superseded by the legal requirements of the Environment (Wales) Act 2016.

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<sup>24</sup> HM Government (2021). Net Zero Strategy: Build Back Greener. (Online). (Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1033990/net-zero-strategy-beis.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1033990/net-zero-strategy-beis.pdf) (Accessed April 2022).

<sup>25</sup> Welsh Assembly Government (2010). A Low Carbon Revolution – The Welsh Assembly Government Energy Policy Statement. (Online) Available at: <http://www.marineenergywales.co.uk/wp-content/uploads/2016/01/WAG-low-carbon-revolution2.pdf> (Accessed April 2022).

<sup>26</sup> Welsh Assembly Government (2010). Climate Change Strategy for Wales. Delivery Plan for Emission Reduction. (Online) Available at: <https://gov.wales/sites/default/files/publications/2019-04/climate-change-research-emission-reduction-scenarios.pdf> (Accessed April 2022).

### Energy Wales: A Low Carbon Transition (2012) <sup>27</sup>

- 5.2.25 Energy Wales sets out the how the Welsh Government will work in partnership with private, public and social sectors to ensure the transition to a low carbon economy to secure a wealthier, more resilient and sustainable future for Wales. Amongst other measures, the document states that the Welsh Government seeks to make the best use of commercially proven renewable energy sources, facilitate appropriate deployment to deliver against Wales's low carbon objectives and realise the significant wealth generating opportunities Wales has.
- 5.2.26 The Welsh Government wants to provide leadership on the energy agenda in Wales. It aims to improve a number of areas to ensure the energy agenda progresses to a more low carbon format. In specific relation to delivering renewable energy the statement explains that in 2010 capacity from wind farms was 562MW, with 62% of renewable energy coming from wind or solar. The aim is to make best use of proven renewable sources, including onshore wind, and deliver against low carbon objectives. This will include improvements to the planning and consenting regime and ensure that the necessary infrastructure for a diverse portfolio of renewable energy is delivered.

### Energy Wales: A Low Carbon Transition Delivery Plan (2014)<sup>28</sup>

- 5.2.27 The Energy Wales Delivery Plan sets out how the Welsh Government would develop proposals set out in the Energy Wales (2012) document. The Delivery Plan includes a number of themes and priority project areas which are within the gift of the devolved administration to support.

### Energy Generation Targets for Wales: Statement to Assembly Members (2017) <sup>29</sup>

- 5.2.28 In September 2017, the Welsh Government Cabinet Secretary for Environment and Rural Affairs announced to the Welsh Assembly that the Welsh Government was setting a target for Wales to generate 70% of its electricity consumption from renewable energy by 2030 and a target for 1GW of renewable electricity capacity in Wales to be locally owned by 2030. Additionally, it set a target for all renewable energy projects to have an element of local ownership.

### Energy Generation in Wales Report 2019 (2020)<sup>30</sup>

- 5.2.29 The latest Energy Generation in Wales Report covering 2019 sets out the latest data on energy generation from renewables, The Report states that capacity had increased in Wales in recent years although increases have slowed down. It set out that an estimated

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<sup>27</sup> Welsh Government (2012). Energy Wales: A Low Carbon Transition. (Online) Available at: <https://gov.wales/sites/default/files/publications/2019-07/energy-wales-a-low-carbon-transition.pdf> (Accessed April 2022).

<sup>28</sup> Welsh Government (2014). Energy Wales: A Low Carbon Transition Delivery Plan. (Online) Available at: <https://gov.wales/sites/default/files/publications/2019-07/energy-wales-a-low-carbon-delivery-plan.pdf> (Accessed April 2022).

<sup>29</sup> Welsh Government (2017) Lesley Griffiths high on ambition for clean energy. (Online) Available at: <https://gov.wales/lesley-griffiths-high-ambition-clean-energy> (Accessed April 2022).

<sup>30</sup> Welsh Government (2020). Energy generation in Wales 2019. (Online) Available at: <https://gov.wales/sites/default/files/publications/2021-01/energy-generation-in-wales-2019.pdf> (Accessed April 2022).

7.5TWh of energy in Wales was from renewables in 2019. In comparison to the target for 70% of consumed energy to be provided by renewables, the 2019 report estimates that this figure stands at 51%. The Report also notes that there is 825MW of locally owned renewable energy capacity in Wales, which is 83% of the way towards the 1GW target by 2030. In 2019 total onshore wind capacity stood at 1.25GW an increase in capacity of 12% from 2018.

### Policy Statement: Local Ownership of Energy Generation in Wales – Benefitting Wales Today and for Future Generations (2020)<sup>31</sup>

- 5.2.30 This places considerable importance on moving from polluting energy generating technologies to renewables. It also identifies that Wales has made considerable and impressive gains in ensuring energy generating facilities have some form of public ownership, contributing to local economies considerably more than traditional ownership methods.
- 5.2.31 The Policy Statement clarifies the definition of local ownership as *"energy installations, located in Wales, which are owned by one or more individuals or organisations wholly owned and based in Wales, or organisations whose principal headquarters are located in Wales. This includes the following categories: Businesses; Farms and estates; Households and other domestic scale generation; Local Authorities; Other public sector organisations; Registered Social Landlords; Third sector organisations including social enterprises and charities, their subsidiaries, trading arms and special purpose vehicles."*

### Programme for Government (2021)<sup>32</sup>

- 5.2.32 The Welsh Government's Programme for Government published in June 2021 sets out the actions that the Welsh Government intend to take over the lifetime of the Senedd. It seeks to ensure that tackling the climate and nature emergencies is at the heart of Welsh Government activity. One of the ten well-being objectives is *"Embed our response to the climate and nature emergency in everything we do."*

### Net Zero Wales (2021)<sup>33</sup>

- 5.2.33 The Environment (Wales) Act 2016 (as amended) Act requires the publication of a report setting out policies and proposals for each carbon budget period. In October 2021, the Welsh Government published Net Zero Wales: Carbon Budget 2 (2021 to 2025) which builds upon their previous plan Prosperity for All: A Low Carbon Wales (Welsh Government, 2019). This sets out a large number of policies for action in the five-year carbon budget period and proposals for action in the longer term to ensure that Wales

<sup>31</sup> Welsh Government (2020). Policy Statement: Local Ownership of Energy Generation in Wales – Benefitting Wales Today and for Future Generations. (Online) Available at: <https://gov.wales/sites/default/files/publications/2020-02/policy-statement-local-ownership-of-energy-generation-in-wales.pdf> (Accessed April 2022).

<sup>32</sup> Welsh Government (2021). Programme for Government: Well-being Statement. (Online) Available at: <https://gov.wales/sites/default/files/publications/2021-06/programme-for-government-2021-to-2026-well-being-statement.pdf> (Accessed April 2022).

<sup>33</sup> Welsh Government (2021). Net Zero Wales Carbon Budget 2 (2021-25). (Online) Available at: <https://gov.wales/sites/default/files/publications/2021-10/net-zero-wales-carbon-budget-2-2021-25.pdf> (Accessed April 2022).

meets the required average reduction of 37% in GHG emissions against the baseline and is on track to achieve net zero emissions in 2050.

- 5.2.34 The Plan reinforces the importance of delivering energy generation from renewable sources to meet the energy needs of Wales. The plan plays an important role in meeting challenges posed by the climate emergency declared by the Welsh Government in April 2019.<sup>34</sup>

## 5.3 National planning policy context

- 5.3.1 Welsh national policy is set out in Future Wales: The National Plan, Planning Policy Wales 11 (PPW) and relevant supplementary Technical Advisory Notes (TAN). This section considers the documents in turn.

### Future Wales: The National Plan 2040 (2021)<sup>35</sup>

- 5.3.2 Future Wales: The National Plan 2040 (Future Wales) was published by the Welsh Government in February 2021. Future Wales sets out the national development framework for Wales and has development plan status. As the highest tier of the development plan it provides the framework for the development of regional level Strategic Development Plans (SDPs) (which have yet to be produced) and Local Development Plans (LDPs). Future Wales is the Welsh Government's "*strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong eco systems and improving the health and well-being of our communities*" (page. 6). Future Wales is the policy document against which DNS (including the Proposed Development subject to this Draft ES) must be determined in accordance with unless material considerations indicate otherwise, in line with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.3.3 Future Wales has been prepared to provide a clear, long term spatial direction for Government policy, action and investment in Wales. It sets out a framework for addressing key national priorities through the planning system, inclusive of decarbonisation. It states (page. 46): "*Future Wales together with Planning Policy Wales will ensure the planning system focuses on delivering a decarbonised and resilient Wales through the places we create, the energy we generate, the natural resources and materials we use and how we live and travel.*"
- 5.3.4 Future Wales recognises the role that Wales can play in supporting the use of renewable energy. It recognises that "*Wales can become a world leader in renewable energy technologies*" (page. 48) Furthermore, it recognises that "*Our wind and tidal resources, our potential for solar generation, our support for both large and community scaled projects and our commitment to ensuring the planning system provides a strong lead for renewable energy development, mean we are well placed to support the renewable sector, attract new investment and reduce carbon emissions*" (page. 48).

<sup>34</sup> Welsh Government (2019) Minister for Environment, Energy and Rural Affairs Lesley Griffiths Welsh Government makes climate emergency declaration

<sup>35</sup> Welsh Government (2021). Future Wales: The National Plan 2040. (online) Available at: <https://gov.wales/sites/default/files/publications/2021-02/future-wales-the-national-plan-2040.pdf> (Accessed April 2022).

- 5.3.5 Future Wales sets out 11 outcomes to provide a vision for change to 2040. Outcome 11 seeks "A Wales where people live ... in places which are decarbonised and climate-resilient" (page. 56). Further it states, "The challenges of the climate emergency demand urgent action on carbon emissions and the planning system must help Wales lead the way in promoting and delivering a competitive, sustainable decarbonised society" (page. 56).
- 5.3.6 Future Wales reaffirms the Welsh Government's commitment to maximising renewable and the Welsh Government targets:
- For 70% of electricity consumption to be generated from renewable energy by 2030;
  - for one gigawatt of renewable energy capacity to be locally owned by 2030; and
  - for new renewable energy projects to have at least an element of local ownership from 2020.
- 5.3.7 Future Wales confirms that energy generation accounted for 29% of GHG emissions in 2018 and is clear that large scale renewable electricity generation is vital meeting renewable energy and climate change targets and alternatives would not meet the targets (page. 97):
- "The Welsh Ministers have considered alternatives to the need for new large-scale electricity generation infrastructure, including building-mounted installations and energy efficiency measures. Although we believe that these measures have an important part to play in meeting our energy, decarbonisation and climate change targets, they will not enable us to meet these objectives on their own."*
- 5.3.8 Future Wales identifies 10 PAAs for wind within which there is a presumption in favour of large-scale wind development under Future Wales' Policy 17 - Renewable and Low Carbon Energy and Associated Infrastructure subject to detailed criteria in Policy 18 – Renewable and Low Carbon Energy Developments of National Significance. Policy 17 states that "The Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs" whilst decision makers are required to give "significant weight" to the need to meet international commitments and Wales' target to generate 70% of energy from renewables by 2030. Policy 18 provides a detailed decision-making framework for the renewable and low carbon energy developments.
- 5.3.9 Additionally, Policy 33 – National Growth Area – Cardiff, Newport and the Valleys sets out the overall strategic view for development in the South East which includes the area covered by Blaenau Gwent County Borough Council (BGCBC). Amongst its provisions, the Policy states that "The Welsh Government supports co-ordinated regeneration and investment in the Valleys area to improve well-being, increase prosperity and address social inequalities."

## Planning Policy Wales (Edition 11) (2021)<sup>36</sup>

- 5.3.10 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. PPW Edition 11 was adopted in February 2021 to coincide with the

<sup>36</sup> Welsh Government (2021). Planning Policy Wales Edition 11. (Online) Available at:

[https://gov.wales/sites/default/files/publications/2021-02/planning-policy-wales-edition-11\\_0.pdf](https://gov.wales/sites/default/files/publications/2021-02/planning-policy-wales-edition-11_0.pdf) (Accessed April 2022).

publication of Future Wales. PPW, with the supporting Technical Advice Notes (TAN), Circulars and Policy Clarification letters comprise national planning policy but do not form part of the development plan.

- 5.3.11 At para 3.30 PPW states that *"In 2019 the Welsh Government declared a climate emergency in order to coordinate action nationally and locally to help combat the threats of climate change. The planning system plays a key role in tackling the climate emergency through the decarbonisation of the energy system and the sustainable management of natural resources."*
- 5.3.12 Chapter 5: Productive and Enterprising Places sets out the planning policy approach to energy within Wales. Para 5.7.6 states that *"The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development."*
- 5.3.13 PPW11 reaffirms the Welsh Government's targets for renewable energy generation and local ownership. Para 5.7.7 states that *"The benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, is of paramount importance."* PPW11 states that the planning system should (Para 5.7.7):
- *"integrate development with the provision of additional electricity grid network infrastructure;*
  - *optimise energy storage;*
  - *facilitate the integration of sustainable building design principles in new development;*
  - *optimise the location of new developments to allow for efficient use of resources;*
  - *maximise renewable and low carbon energy generation;*
  - *maximise the use of local energy sources, such as heat networks;*
  - *minimise the carbon impact of other energy generation; and*
  - *move away from the extraction of energy minerals, the burning of which is carbon intensive."*
- 5.3.14 PPW states that local planning authorities should ensure *"development plan policies are supportive of renewable and low carbon energy development in all parts of Wales, direct developments to the right locations and set out clearly the local criteria against which proposals will be evaluated"* (Para 5.9.10). PPW11 is also clear that local planning authorities should not seek to amend the PAAs identified in Future Wales within their LDPs.
- 5.3.15 PPW11 affirms that planning applications for onshore wind generating projects over 10MW are made directly to Welsh Ministers as part of the DNS process and are to be considered under the policies of Future Wales.

## Technical Advice Notes

### Technical Advice Note 5: Nature Conservation and Planning (2009)<sup>37</sup>

5.3.16 TAN 5 provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation within Wales. It sets out the key principles of planning for nature conservation for both local development plans and when deciding planning applications that may affect nature conservation. These include:

- Being mindful of the principles of sustainable development, environmental limits, the precautionary principle;
- contributing to the protection and improvement of the environment;
- promoting the conservation and enhancement of statutorily designated areas and undeveloped coast;
- ensuring that appropriate weight is attached to designated sites of international, national and local importance;
- protecting wildlife and natural features in the wider environment;
- ensuring that all material considerations are taken into account and decisions are informed by adequate information about the potential effects of development on nature conservation;
- ensuring that the range and population of protected species is sustained; and
- avoiding harm to nature conservation, minimising unavoidable harm by mitigation measures, offsetting residual harm by compensation measures and looking for new opportunities to enhance nature conservation.

### Technical Advice Note 6: Planning for Sustainable Rural Communities (2010)<sup>38</sup>

5.3.17 TAN 6 provides guidance on sustainable rural economies, rural services and housing and agriculture. It notes that planning authorities should support the diversification of the rural economy and that the planning system has a key role to play in supporting the delivery of sustainable rural communities. It goes on to consider the range of rural matters that the planning system should address from homes and employment opportunities to rural services whilst protecting and enhancing the natural and historic environment and safeguarding the countryside and open spaces. It also notes the need to respond to the challenges posed by climate change and identifies that one method which can contribute to this is renewable energy generation, particularly using local renewable sources. In paragraph 3.7.2, TAN6 considers farm diversification and notes the range of activities

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<sup>37</sup> Welsh Assembly Government (2009). Technical Advice Note 5: Nature Conservation and Planning. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan5-nature-conservation.pdf> (Accessed April 2022).

<sup>38</sup> Welsh Assembly Government (2010). Technical Advice Note 6: Planning for Sustainable Rural Communities. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan6-sustainable-rural-communities.pdf> (Accessed April 2022).

which can be sustainably located on farms and notes that the production of renewable energy is likely to be an appropriate use.

### Technical Advice Note 11: Noise (1997)<sup>39</sup>

5.3.18 TAN 11 provides advice on how the planning system can be used to minimise the adverse impact of noise, without placing unreasonable burdens on applicants. Local planning authorities must ensure that noise generating development does not cause an unacceptable degree of disturbance. They should also bear in mind that if subsequent intensification or change of use results in greater intrusion, consideration should be given to the use of appropriate conditions.

### Technical Advice Note 12: Design (2016)<sup>40</sup>

5.3.19 The purpose of this TAN is to equip all those involved in the design of development with advice on how 'promoting sustainability through good design' may be facilitated through the planning system and the preparation and validation of mandatory design and access statements. There are a number of key objectives in relation to design which are set out by TAN 12:

- Access - Ensuring ease of access for all;
- Character - Sustaining or enhancing local character, promoting legible development, promoting a successful relationship between public and private space, promoting quality, choice and variety and promoting inclusive design;
- Community Safety - Ensuring attractive, safe public spaces and security through natural surveillance;
- Environmental Sustainability - Achieving efficient use and protection of natural resources, enhancing biodiversity and designing for change; and
- Movement - Promoting sustainable means of travel.

### Technical Advice Note 19: Telecommunications (2002)<sup>41</sup>

5.3.20 This TAN deals with both the creation of telecommunication links and also the potential for radio interference from proposed developments. It notes that large prominent structures such as wind farms can cause disruption to television and other telecommunications services due to the physical obstruction. It puts the onus on local planning authorities to satisfy themselves that the potential for interference has been fully taken into account in the siting and design of such developments, and appropriate mitigation built into the scheme if necessary.

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<sup>39</sup> Welsh Assembly Government (1997). Technical Advice Note 11: Noise. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan11-noise.pdf> (Accessed April 2022).

<sup>40</sup> Welsh Government (2016). Technical Advice Note 12: Design. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan12-design.pdf> (Accessed April 2022).

<sup>41</sup> Welsh Assembly Government (2002). Technical Advice Note 19: Telecommunications. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan19-telecommunications.pdf> (Accessed April 2022).

### Technical Advice Note 23: Economic Development (2014)<sup>42</sup>

- 5.3.21 TAN 23 sets out guidance for the approach to economic development. Under section 3, TAN 23 reaffirms the importance of sustainable economic development in rural areas. Under paragraph 2.1.13 the TAN restates that the planning system should support (inter alia) the low-carbon economy. TAN 23 states that the balance between economic benefits and social and environment impacts need to be carefully weighed up and decisions on each case will depend on local circumstances.

## 5.4 Local planning policy context

- 5.4.1 This section sets out the local planning policy context including the Blaenau Gwent Local Development Plan (LDP) (2011-2026) and relevant Supplementary Planning Guidance (SPG). As set out above, Future Wales is now the highest tier of the development plan. The adopted LDP forms the local part of the development plan for the site. BGCBC is currently preparing a replacement LDP, which is considered further below.
- 5.4.2 There are also a range of SPG documents in place for Blaenau Gwent which are also relevant to the consideration of the scheme. SPGs supplement and explain the policies in the adopted LDP - they do not form part of the development plan but can act as material considerations in the decision making process.

### Blaenau Gwent County Borough Council Local Development Plan up to 2021 (2012)<sup>43</sup>

- 5.4.3 The Proposed Development is located within the boundary of the BGCBC. The LDP for the area is the BGCBC LDP which has a plan period extending from 2006 to 2021 and was adopted in November 2012.
- 5.4.4 The LDP sets out the policies to guide development in the area up to 2021. It also sets out the vision for Blaenau Gwent and includes 16 objectives under four key themes which address the key issues for the County Borough. There are four LDP objectives which are particularly relevant to the Proposed Development:
- 6. New development has minimised further climate change contributions and, where appropriate, mitigated or adapted to its predicted effects. This has been achieved by:
    - ▶ Maximising the use of land;
    - ▶ Promoting the re-use and restoration of derelict land and buildings;
    - ▶ By focusing development away from areas vulnerable to flooding;
    - ▶ By reducing energy consumption through improved design and locating development close to hubs and public transport routes; and
    - ▶ By increasing the supply of renewable energy.

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<sup>42</sup> Welsh Government (2014). Technical Advice Note 23: Economic Development. (Online) Available at: <https://gov.wales/sites/default/files/publications/2018-09/tan23-economic-development.pdf> (Accessed April 2022).

<sup>43</sup> Blaenau Gwent County Borough Council (2012). Local Development Plan up to 2021. (Online) Available at: <https://www.blaenau-gwent.gov.uk/en/resident/planning/local-development-plan/adopted-local-development-plan-2006-2021/adopted-ldp/> (Accessed April 2022).

- 12. The valuable landscape of Blaenau Gwent has been protected, enhanced and managed and together with other elements of the natural heritage, helped foster sustainable tourism and promoted community pride.
- 13. By 2021, the biodiversity resource of Blaenau Gwent has been enhanced and the connectivity of ecological networks have been improved from 2006 levels.
- 14. Blaenau Gwent's historical and cultural environment has been protected and enhanced and has contributed to the regeneration of the area.

5.4.5 The LDP policies relevant to the Proposed Development are included in **Table 5.1**. The policies are considered in more detail in the relevant technical chapters of the ES (**Chapters 6 to 17**).

**Table 5.1 Blaenau County Borough Local Development Plan (LDP) Policies**

<b>Adopted LDP policy</b>	<b>Policy summary</b>
<b>SP7 Climate Change</b>	The policy sets out overall approach to address climate change and reduce energy demand and includes (at criteria (1a)) encouraging renewable/low/zero carbon electricity and heat generation.
<b>SP9 Active and Healthy Communities</b>	This policy promotes the delivery of active and healthy communities including protecting and enhancing accessibility to natural greenspaces.
<b>SP10 Protection and Enhancement of the Natural Environment</b>	Seeks to protect and, where possible, enhance natural environment and provides criteria through which this will be achieved within Blaenau Gwent related landscapes, green infrastructure, biodiversity and nature conservation.
<b>SP11 Protection and Enhancement of the Historic Environment</b>	Seeks to protect, preserve and enhance the historic environment through safeguarding nationally designated sites and protecting locally designated buildings and conservation areas, enhancing sites of historic/archaeological value and promoting heritage tourism,
<b>DM1 New Development</b>	Sets out a range of criteria for good design in new development regarding: <ul style="list-style-type: none"> <li>• Sustainable design including energy efficiency, effective use of resources, minimisation of construction waste, and no net loss of biodiversity;</li> <li>• Amenity including consideration of compatibility with other uses in the locality, adverse visual impacts, adverse impacts on the water environment, health, and land stability; and</li> <li>• Accessibility including the provision of safe, effective and efficient access and parking, servicing and operational space.</li> </ul>
<b>DM4 Low and Zero Carbon Energy</b>	The policy provides criteria against which low and zero carbon development, such as onshore wind will be considered. The criteria covers a range of issues including landscape impacts, archaeology, noise and amenity, electro-magnetic fields, and removal of infrastructure.
<b>DM14 Biodiversity Protection and Enhancement</b>	Projects within 10km of Usk Bat Sites SAC that would have impacts on connectivity or cause direct/indirect effects to be subject to HRA. Proposals close to or within SINCs or LNR or affect ecological corridors of Priority Habitats and Species subject to criteria.

Adopted LDP policy	Policy summary
<b>DM16 Trees, Woodland and Hedgerow Protection</b>	Requires that development proposals not give rise to unacceptable harm to trees, woodlands and hedgerows that have natural heritage value or contribute to the character or amenity of a particular locality.
<b>ENV2 Special Landscape Areas</b>	Lists the eight SLAs that have been identified within the area administered by BGCBC using a regionally agreed methodology. Development within the defined SLAs will be expected to conform to the highest standards of design, siting, layout and materials appropriate to the character of the area.
<b>ENV3 Sites of Importance for Nature Conservation</b>	The policy lists the Sites of Importance for Nature Conservation (SINC's). There are 26 SINCS within 2km of the Site.
<b>M1 Safeguarding of Minerals</b>	Safeguards mineral resources to avoid sterilisation.
<b>M2 Mineral Buffer Zones</b>	The policy seeks to (a) avoid development that prejudices the extraction of mineral or operation of sites whilst (b) no new mineral extraction will be permitted except in exceptional circumstances.
<b>M4 Preferred Areas</b>	The policy identifies Preferred Areas and buffer zones with some commercial potential.

## Emerging Local Development Plan

- 5.4.6 BGCBC is currently preparing a replacement LDP to cover a plan period between 2018-2033 with the intention to adopt the plan in the autumn of 2022. In January 2020 the County Borough consulted on its LDP Preferred Strategy.
- 5.4.7 Draft Policy SP3 Climate Change seeks to positively contribute to addressing climate change through (inter alia): *“Supporting the development of renewable and low/zero carbon energy generation;”* Overall, the emerging policy context would support the Proposed Development subject to range of criteria-based policies. Subject to examination and adoption the weight that can be attached to emerging policies is limited. However, the replacement plan and the policies contained within are a helpful indication of the direction to be taken by the authority in determining its approach to new development and its reaction to how the BGCBC will help tackle climate change.
- 5.4.8 BGCBC declared a climate emergency in September 2020. This will shape and inform the development of the LDP.

## Supplementary Planning Guidance

### Planning Guidance for Smaller Scale Wind Turbine Development Landscape and Visual Impact Assessment Requirements (2015)<sup>44</sup>

5.4.9 This guidance sets out specific requirements with regards to preparing landscape and visual assessments (LVIA) across the Heads of the Valleys area. The SPG sets out the minimum requirements in relation EIA scoping opinion, the methodology to be applied and the minimum requirements for LVIA. The guidance is clear that it applies to community scale developments of smaller scale, which the guidance considers to be below 5MW. Therefore, the weight given to this guidance by decision makers for DNS applications is limited.

### Nature Conservation Planning Guidance for Small Scale Wind Energy Developments Supplementary Planning Guidance (2017)<sup>45</sup>

5.4.10 The Nature Conservation Planning Guidance for Small Scale Wind Energy Developments SPG was adopted in February 2017. The SPG supplements LDP policies SP10, DM1.1(f), DM1.2(e), DM2(g), DM4(a), DM14, DM15 and DM16. The SPG provides guidance on best practice that should be taken into consideration when formulating surveys for small scale wind energy developments. The guidance covers specialist information with regards to bat surveys and the importance of the Usk Bat Sites Special Area of Conservation (SAC).

## 5.5 Other relevant strategies

### Cardiff Capital Region City Deal

#### Cardiff Capital Region City Deal (CCR) Energy Vision and Strategy (2021)<sup>46</sup>

5.5.1 Cardiff Capital Region City Deal (CCR) (which includes BGCBC) has developed an Energy Vision and Strategy in partnership with Welsh Government. The Strategy seeks to set out a route to decarbonisation that will enable the region to achieve a net zero energy system by 2050, which includes supporting low carbon technologies. The vision is guided by three core principles, which seek to:

1. Act as an enabler to a sustainable regional economy: deliver inclusive employment, profits and skills, lower costs and open up markets, and stimulate public and private investment in capital projects that deliver low carbon improvements across the region.

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<sup>44</sup> Gillespies LLP (2015). Planning Guidance for Smaller Scale Wind Turbine Development Landscape and Visual Impact Assessment Requirements. (online) Available at: [https://www.caerphilly.gov.uk/CaerphillyDocs/LDP/PG\\_Smaller\\_Scale\\_Wind\\_Turbine\\_Developments.aspx](https://www.caerphilly.gov.uk/CaerphillyDocs/LDP/PG_Smaller_Scale_Wind_Turbine_Developments.aspx) (Accessed April 2022).

<sup>45</sup> Blaenau Gwent County Borough Council (2017). Nature Conservation Planning Guidance for Small Scale Wind Energy Developments Supplementary Planning Guidance. (online) Available at: [https://www.blaenau-gwent.gov.uk/media/ewpawmgg/spg\\_nature\\_conservation\\_planning\\_guidance.pdf](https://www.blaenau-gwent.gov.uk/media/ewpawmgg/spg_nature_conservation_planning_guidance.pdf) (Accessed April 2022).

<sup>46</sup> Welsh Government Energy Service (2021) Cardiff Capital Region Energy Strategy. (online) Available at: <https://gov.wales/sites/default/files/publications/2021-11/regional-energy-strategy-cardiff-capital-region.pdf> (Accessed April 2022).

2. Contribute wider benefits to the region: including alleviating fuel poverty, sparking innovation and developing local training and skills.

3. Decarbonise the energy system to meet national targets as a minimum: carbon reductions across all sectors, energy efficiency as a core focus, and to have a multi-vector system that includes a range of low carbon technologies.