SUBMISSION FROM HEADS OF PLANNING SCOTLAND

Planning and Consents

Introduction

Heads of Planning Scotland (HoPS) is pleased to submit the following evidence to the Economy, Energy and Tourism Committee in order to assist its deliberations into the inquiry into the Scottish Government’s renewables targets. In this submission we have concentrated our evidence on the ‘Planning and Consents’ section of the Committee’s ‘Call for Evidence’.

The contents of this evidence are drawn from the advice and experience of professional planners in Highland, Aberdeenshire, West Lothian, Argyll, Falkirk, Scottish Borders, South Lanarkshire and Dumfries and Galloway councils and the Ayrshire Joint Panning Unit and is a consensus of views of professional planners who are closely involved in the assessment of on-shore wind projects to assist in meeting the Government’s targets.

From the outset it is important to reaffirm that HoPS supports the stated national interest in the 2020 Route Map; that is a matter of government policy and a national priority. The national interest is clearly to afford greater opportunities for renewable energy with all the benefits that it brings in terms of carbon emission reduction, international obligations, employment, a reduction in reliance on finite, often overseas resources, and economic benefits nationally and locally.

Is the planning system adequately resourced and fit for purpose?

The planning system in Scotland plays a key role in the implementation of the renewable energy schemes required to achieve the targets set by Scottish Government. A significant amount of the consented 5 GW of on–shore wind renewable energy has been delivered directly by the planning system, sometimes in the face of extensive local hostility. All of it has involved the input of local authorities at some level in the determination of consents. HoPS recognises this important role that local authority planning officers and local elected members play. It is essential to emphasise the conflicting demands that often fall to planning authorities to reconcile in the first instance, against a background of resource constraint.

Against this background, HOPS has for some time been seeking the agreement of Scottish Government to increase fees for planning applications and proposals will shortly be published for consultation.

For complex planning and s36 applications for renewable energy schemes there is an increasing amount of highly complex information required to be considered and assessed prior to determination and this fee increase is arguably even more justified. The processing of a renewable energy planning or s36 application generally requires a greater staff time resource than that of other forms of development, it usually involves a wider range of consultees internal and external to the council and the determination of applications can involve external consultants for advice, expensive committee site visits and hearings. Furthermore, it is an area of planning case work
that is more likely to be challenged either by applicants at appeal or more increasingly by third parties through the courts, all adding to the resource burden of local authorities.

It is suggested that the modernised planning system is fit for purpose and is the most appropriate consenting regime for renewable energy developments where decisions can be made at a local level in the context of national priorities. Yet to be more efficient in the delivery of the renewable energy targets the planning system needs to be properly resourced.

Some background to the role of the planning system in the delivery of on-shore wind energy targets gives an insight into the relationship between planning and renewable energy. The interface is at several levels and while the passage of a planning application or section 36 consultation through the planning system varies from council to council it generally involves similar administrative and professional processes.

Firstly, the preparation of development plan policies and supplementary planning guidance provides the overarching policy approach to the determination of on-shore windfarm proposals.

Scottish planning authorities have been proactive in identifying opportunities for on-shore wind proposals either in developments plans or supplementary guidance. The scale of this release has been substantial. For example within Ayrshire it is equivalent to 10% of the landward area and has the capacity to deliver over 1600MW; half of this has been consented. Looking more broadly at the west of Scotland this capacity increases substantially. Hence, even with a conservative outlook, the capacity that has been delivered through the planning system in the west of Scotland alone would more than adequately address the onshore requirements articulated within the draft Electricity Generation Policy Statement 2010 (now being updated) which quote figures of 6.5GW.

In short the planning system is delivering capacity and delivering on a substantial scale.

Councils are consulted by Scottish Government in assessing technically complex and often highly contentious applications under section 36 of the Electricity Act, including large and detailed environmental impact statements and the subsequent formation of a response; if there is no objection, the framing of planning conditions and legal agreements; and if there are objections from the council the participation in the public local inquiry procedure. That role is repeated in the handling of either major or local planning applications.

The tasks that councils must undertake include the assessment of the proposal, whether a single turbine or a major wind farm, on the basis of the submission and requisite additional information; the carrying out of technical consultations on matters such as noise, aviation safeguarding, landscape and bio-diversity, ensuring statutory requirements on publicity are met; assessing multiple representations; reporting the matter to elected representatives; drafting conditions and legal agreements, participation in either a statutory local review or planning appeal potentially including
a public inquiry, and ensuring compliance with regulatory measure if a scheme is developed.

This all impacts on staff time and a council’s financial resources. This is compounded by the intense scrutiny from applicants, objectors, external pressure groups and competing companies.

HoPS therefore cannot overstate the complexity in dealing with such proposals for renewable energy developments.

Moreover, it should be understood the significant role that local authority planners and consultees have in the determination process of s36 applications with the Scottish Government being often entirely reliant on this advice and technical expertise.

For both s36 applications and planning applications authorities must spend a considerable amount of time on pre-application advice, screening, scoping, and the discharge of conditions. Appeals account for a large investment in resources, even when a public local inquiry is not involved. This significant and disproportionate demands on financial and human resources into a relatively small number of applications is having a wider demonstrable impact on wider performance issues with some authorities when dealing with other applications.

The consistency of information being received with applications varies considerably. This can lead to valuable professional time being used to request and assess further information. A consistent approach, lead by Scottish Government, setting out what is expected to be submitted with applications for wind turbine applications at the outset to aid consistency in application content will assist in the efficient processing the applications.

Against this background it must be noted that proposals for onshore wind can give rise to extensive public representation and will typically carry a high local political profile.

It is important to stress that even in the current economic climate, the planning system in Scotland must process a wide range of development proposals and wind farm developments may be one small part of a planning officers’ daily task, although specialist teams in larger planning authorities do have more of a degree of focus and specialism. The scale and complexity of even modest on-shore wind proposals, and the increasing hostility locally, is adding substantially to the workload of local authority planning, administration, legal and environmental health officers.

Detailed knowledge for the processing of applications is required and this can sometimes cause difficulty. The disengagement by the key agencies, and in particular SEPA, SNH and Historic Scotland, places more burdens on local authorities. It is appreciated that this gap is in part being filled through key agencies preparing guidance and advice, inputting to planning authorities’ preparation of the development plan and guidance and offering some training to planning authorities. However, this still leaves a deficit in terms of case-specific assessment and advice which the planning authority has to try to cover.
The need for complex assessments of noise, shadow flicker and vibration adds to the workloads of local authority environmental health officers. The receipt of often lengthy and technically complex objections requires individual assessment and may generate new information that needs to be published. The absence of sufficient, and in some cases of any, in-house expertise on matters such as bio-diversity or landscape assessment adds to the resourcing issues and the timeous conclusion of the determination process. If a case is ultimately determined through the appeal procedure, additional costs are needed to fund a public inquiry or an appeal where a case is determined contrary to officers’ recommendations. These costs can be substantial on local authority budgets.

Applicants for renewable energy have substantial financial and staffing resources to promote their own planning proposals; when that proposal is received by a local authority the limited financial and human resources available can significantly impede on the timeous determination of a proposal.

Changes to FIT’s and ROC’s directly affect the numbers of applications submitted to councils. Resources to authorities could be based on these changes i.e. when the Government gives larger grants to the industry more resources need to go in to the regulatory services or a drop in performance is inevitable. The current extent of developer interest may only be temporary so resources could also be allocated on that basis.

Many proposals for onshore wind are acceptable or, subject to modification, can be made to be acceptable.

Conversely an increasing number of applications are made for highly sensitive areas or where an unacceptable cumulative environmental impact would occur, often against pre application advice. Where the site lies within an area identified by the development plan as requiring significant protection, and the developer has not fully demonstrated that their proposal can be satisfactorily accommodated having regard to those constraints, or when the proposal is made contrary to pre-application advice, further resources are deflected in dealing with wholly unacceptable proposals. This is at the expense of the more timeous processing of other more favourable applications.

There is a view that an option may be to consider having regionally based teams of dedicated planners to deal with the delivery of the renewable targets. Whilst there could be clear advantages to this from the industry perspective, there may however be resourcing issues from council’s to the loss of a member of staff who may well have other non-related cases to deal with. A revision of fees from on shore wind applications could translate into additional dedicated staffing, locally.

The planning system has seen a significant modernisation in recent years and changes such as introducing the planning hierarchy, a requirement for pre-application consultation on major applications and encouraging greater use of processing agreements is at the heart of the Scottish Government’s planning reform agenda. These important changes work. Subject to proper investment, they can enable a more efficient planning system that can meet the challenge of increasingly complex decision making. Any proposals to amend, for example, the planning
hierarchy and the role of local review bodies cuts across this agenda and may be out of synchronisation with the broader objective of devolving more control locally and enabling greater participation in the system.

Indeed at the heart of the Government’s recent planning reforms was the greater transfer of decision-making to the local level. In terms of on-shore wind, this means that proposals for on-shore wind developments lower than 20MW are local applications and if they are refused planning permission by the council’s appointed person, the review of that decision is carried out locally by a Local Review Body. HoPS would suggest that the hierarchy, as set out in the 2009 Regulations, should not be amended simply to allow for more applications to be subject to a planning appeal. The Local Review Body is a proper mechanism for reviewing local planning decisions.

As things stand proposals for between 20MW and 50MW require to be subject to pre-application consultations as major planning applications. Those larger schemes of over 50MW which are determined through s36 of the Electricity Act 1989 do not require pre application consultation; this is a matter that can give rise to local concerns.

The current planning system is fit for purpose. It strikes a balance between economic development and meeting renewable energy targets on the one hand with the need for protection of landscape and community amenity on the other. If recognition is given to matters raised here by HoPS, and especially if properly resourced, it will further assist in the Scottish Government’s agenda for sustainable economic growth.

The balancing of competing interests

Scottish Planning Policy (SPP) is the expression of the Scottish Government’s approach to land use planning matters and is a foundation stone in the determination of applications. There may be an opportunity to reassess some of the terms of SPP to afford a better balance between local and national interests. Specifically, from the Scottish Government’s ‘2020 Route Map for Renewable Energy in Scotland’ it is clear that the planning system in Scotland will require to deliver further consents to allow the deployment of on-shore wind beyond the currently deployed 3.4GW and the 2GW consent but not commenced schemes.

Inevitably, on-shore wind development brings about landscape change, even if consents are limited to, say, 25 years. As consented schemes are completed on less sensitive sites it is clear that there will be an increasing scale of public concern being voiced as familiar and more sensitive landscapes may be altered by emerging development pressures. The cumulative effects of additional windfarms will change an otherwise unaltered local landscape into a ‘windfam’ landscape. The views of those opposing such developments contribute to the assessment of an on-shore wind proposal by professional planners who then make the determination on the proposal and cannot be discounted simply in the national interest.

Whilst protection is afforded to the higher categories of landscape in national terms, local landscape designations and non-designated countryside has less protection from the planning system as set out in SPP. Smaller clusters of turbines and single
turbines can on occasion have a disproportionate landscape and visual impact in relation to the benefits that accrue. Large areas of Scotland are now subject to wind farm development visible from many vantage points over extensive distances.

Across Scotland planning authorities are identifying areas where on-shore wind development is preferred. This is a complex task not performed lightly or easily by councils. The identification of preferred areas is informed by a comprehensive iteration of many variables including landscape, bio-diversity, aviation, transport and community representations. Such preferred areas could yield substantially towards achieving the Government’s targets. Yet industry and landownership patterns may cause alternative sites to come forward and depending on the timing of submissions, disallow better sites to be promoted. The presence of a site outside a preferred area may cause a site in preferred area to be unacceptable because of cumulative impact.

HoPS is aware that, cumulatively, there is a contribution to the Government’s targets for renewable energy be made from single turbines. Properly planned single turbine developments can be acceptable. Nonetheless the local environmental impact of a single turbine in certain locations, contrary to local policies, can be disproportionate and exceed the national and international benefits that accrue. Such a ‘scatter gun’ approach can, on occasion, serve to alienate communities from the wider benefits from on-shore wind developments otherwise located in properly planned areas.

The assessment of individual proposals for on-shore wind requires to be taken in a local context and a better resourced planning system is more readily able to perform the often difficult balancing act of reconciling a national and local concerns. Matters such as impacts on the effect on nationally important landscapes, local landscape designations, and wider non-designated landscapes or all best assessed locally by a well resourced and trained planning service. Similarly the advantages and disadvantages of a concentration of sites versus a dispersal of sites is a local matter and an individual authority’s approach is highly dependent on local land-use planning matters.

As this evidence has demonstrated, the assessment of proposals for on shore wind development, either as local, major or s36 applications, and the compilation of preferred areas of search, is a highly technical and professional task. Extensive and competing demands are placed on the land use planning functions of Scotland’s local authorities in seeking to attain the Scottish Government’s renewable energy targets. To achieve these objectives, HOPS is eager to work with Scottish Government on matters such as the preparation of standard planning conditions and templates for legal agreements. HoPS also believes that the following improvements are necessary:

1. An increase in planning fees, which it is accepted will be dependent on commitment and delivery of improved performance by local authorities in line with the proposed Planning Performance Frameworks;
2. A recognition that renewable energy developments are often complex and time-consuming and that a 2 month or 4-month determination period for local or major applications is unrealistic;
3. A commitment to support local authorities put in place processing agreements for renewable energy developments which will make the development industry accountable in delivering the correct standard of information at the start of the determination process;
4. Greater Scottish Government support to the preparation of development plans and spatial frameworks, recognising the pressures placed on councils to reflect national priorities and the outcome of such conclusions of such policies when complete;
5. Greater standardisation and guidance on issues such as visualisation standards and noise assessments to enable a level playing field for planning staff across Scotland;
6. Facilitation for local authorities to share expertise and experience – HoPS could take a role in working with Scottish Government on this.

Heads of Planning Scotland
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