

Minister for Local Government Empowerment and Planning submission of 27 June 2023

PE1864/TTTTT: Increase the ability of communities to influence planning decisions for onshore windfarms

Thank you for your letter of 6 June 2023 on the above petition in which you ask for further clarification on the Scottish Government's definition of ensuring communities can have a "meaningful say" on planning decisions in their area. You also ask for views on the Petitioner's proposals for providing support to communities wishing to participate in public inquiries on planning decisions.

By way of context, it may be helpful to firstly explain that the term 'community' is defined in the glossary of [National Planning Framework 4](#) which states that a community is:

'A body of people. A community can be based on location (for example people who live or work in or use an area), common identity (for example a shared ethnicity, language, age) or common interest (for example the business community, amenity, sports, social or heritage groups).'

Planning legislation and guidance seeks to ensure the public and communities can have a meaningful say before decisions are made, and my letter of 17 April referred to further enhancements made to support engagement within the planning system. We are seeking to make planning more effective and responsive including by ensuring that community voices are not only heard, but also responded to, further strengthening confidence in decision-making.

For example, in preparation of Local Development Plans, the Town and Country Planning (Scotland) Act 1997 (Section 16B) has been amended to be clear that the planning authority must seek the views of particular groups of people, and have regard to those views when preparing the Evidence Report. The legislation is also clear that the Evidence Report must include a statement on how the planning authority has sought particular stakeholders' views, and how the views have been taken into account. [Local development planning guidance](#) published in May this

year, sets out the Scottish Ministers' expectations for implementing this approach for preparing new local development plans.

Consultation is currently underway on [‘effective community engagement in local development planning guidance’](#). This consultation considers the levels of engagement that may be deployed in the preparation of local development plans. The preparation of this guidance is provided for as a result of changes made by the Planning (Scotland) Act 2019.

For development proposals, Chapter 2 of [‘Circular 3/2022: development management procedures’](#) is clear that engagement associated with pre-application consultation (PAC) for planning applications should be meaningful. The circular points to [Planning Advice Note 3/2010 ‘Community Engagement’](#) and the [National Standards for Community Engagement](#) in that regard.

To be clear, PAC is not a substitute for consideration of the application itself. The application stage is where the decision maker must judge the proposal, which the applicant has finalised in light of PAC, against the development plan and any other material considerations. This should include any material considerations raised in representations made on the proposal in the application.

There is no guidance on the number of objections, nor on the proportion of the community that number represents, that could lead to a particular matter being considered ‘meaningful’. The decision maker must identify matters that are material to the decision and guidance on doing so is set out in Annex A of [‘Circular 3/2022: development management procedures’](#).

Where an application for planning permission is made for a national development or for a major development which is significantly contrary to the development plan, the planning authority is obliged to offer the applicant, and those who made representations on the application, an opportunity to appear before and be heard by a committee of the authority, before a decision is made. An authority can choose to hold such a pre-determination hearing for other planning applications.

Turning to the Petitioner’s proposals for supporting communities in their participation in public inquiries on planning decisions. The Scottish Government’s Planning and Environmental Appeals Division (DPEA) Stakeholder Group met on 23 May. Representatives of the group raised the free help service provided by the Faculty of Advocates, and

the DPEA agreed to consider a refresh of reporter training this year on handling inquiries, to ensure members of the public are able to have their views heard in a safe environment at inquiry in relation to development proposals in which they have an interest. In some cases, the holding of community-based hearings, in addition to the more formal inquiry process, has been welcomed by those community groups and members of the public who have taken part.

I hope the Committee finds this response helpful.

Yours sincerely,

JOE FITZPATRICK