

Planning Democracy - Windfarms

Be aware that the odds are against you as it is Government policy to encourage renewable energy and that seems mainly to mean windfarms, so as soon as you hear of a potential application you need to get organised. That means press publicity and forming a group with a committee and if possible a website plus social media. You need a memorable name. Organise a mailing list of supporters and advise them on how to object and deadlines for comments. Many groups prepare a form with a list of objections for your supporters to tick and space for a personal comment. S36 windfarm objections need to go to the Energy Consents Unit as well as your Council

Start to raise money as soon as possible. Windfarm developers have deep pockets and can afford expensive experts to support them if it comes to public inquiry. At least instruct a planning expert to advise you and prepare a professional objection on your behalf. If you can afford a QC, a landscape expert and a wild life expert that's even better but needs a lot of money.

Update: there are some planning experts willing to help now for very little. Contact CWIF for advice.

Developers generally start to offer very large sums in the form of community benefit during the consultation process. They contact local community councils, arrange meetings and leaflet communities – all to encourage support. The recommended level of community benefit is £5,000 per MW but it varies and can amount to millions over time. In other contexts this would be seen as bribery since if the windfarm is not consented there will be no financial benefit. Letters to the press pointing this out would be useful.

In theory community benefit is not a material planning consideration and plays no part in the planning process. The Scottish Government is quite clear:

Community benefits packages can take many forms, and decisions on the details are best led locally based on consensus between the renewable energy business and the community/communities concerned. The provision of community benefits (including flexible packages of benefits) is not a material consideration, and has no bearing in the planning process.

<https://www.gov.scot/publications/scottish-government-good-practice-principles-community-benefits-onshore-renewable-energy-developments/pages/3/#:~:text=As%20mentioned%20previously%2C%20community%20benefits,and%20any%20other%20material%20considerations> .

This seems to be ignored. Comments are supposed to be based on material planning considerations but there is no comprehensive list of what are and are not material. In practice it can result in large numbers of support comments which may even mention the benefit but councillors seem to be persuaded more by numbers than content.

There is also community ownership which gives local communities a share; this is supported by the government in principle.

There has been considerable publicity recently highlighting the huge sums paid to windfarm developers in Scotland to switch their turbines off because the electricity generated is too far from where it is needed or not needed at all. The total at the beginning of June was over £726m. and this is increasing all the time. It is worth registering with the Renewable Energy Forum

<https://www.ref.org.uk/constraints/index.php> to see the latest figures in your area as this can be used in an objection. This was confirmed recently by a planning expert in an objection to a windfarm:

The constraints payments are public information and are material in terms of the consideration of net economic impact as per para 169 in SPP2. Similar tables have been used in other objections, in evidence at wind farm Public Inquiries, and in submissions lodged directly with Ministers.

A windfarm with capacity over 50MW is a S36 and decided by the Minister; the local council can only comment. Smaller windfarms are decided by the council. What seems to increasingly happen is that a large windfarm is consented by the Scottish Government and later the developer applies for an extension which, no matter how small, is treated in the system as a S36 because they add it to the whole. This can also happen if the windfarm is less than 50MW and approved by the local council but the extension takes it over 50MW. Logically when this is done both windfarms should be

reconsidered as one but this does not happen. The likelihood is that the Minister will consent the second one whereas the council might not if it were treated separately. In that context all the council can do is raise an objection.

Another problem is that windfarms are not considered as a whole, i.e the sum of its parts. The windfarm application will be submitted and consented. This may be followed by an application for the transmission line, which of course is essential, and this will also be consented. There may then be more applications for borrow pits, also essential. Would the windfarm be consented if the application included all the essential parts? Possibly not as transmission lines have their own problems for communities and landscape.

As with everything else, if the council refuses the developer usually appeals but if the council consents the community cannot appeal. A former prominent Highland councillor twice stated in public that the council were sometimes reluctant to refuse due to the cost of the inevitable appeal. Occasionally a local group has sufficient funds to go to Judicial Review but even this is rarely successful and the costs are huge.

Designated wild land is not a protection, nor is peatland. Forests are felled with compensatory planting as a condition in the decision notice but, like other conditions, can be changed later. Protected species are not protected as they should be and it frequently happens that habitat is destroyed prior to surveys being carried out or these surveys are at times when nothing can be seen. It is worth watching out for this.

Do not rely on conditions as they can be changed later. Turbine height increase is common.

You have to be alert for anything done by others that gives an opportunity to hit back at Developers, Government, Greens etc. with a view to raising awareness of the project and its faults, or faults in the system etc. Each group will make up their own minds how to handle such opportunities, but among some of our colleagues there is a strong preference for "striking while the iron is hot" as the passage of time will ensure a lost opportunity.

Useful websites:

SPP – Scottish Planning Policy (see no.182) <https://www2.gov.scot/resource/doc/300760/0093908.pdf>

Councils usually have their own development plans

LVIA – Landscape and Visual Impact Assessment

<https://www.nature.scot/professional-advice/landscape-change/landscape-tools-and-techniques/landscape-and-visual-impact-assessment>

WLAs – Wild Land Areas. See <https://www.nature.scot/wild-land-area-descriptions>

EIA - Environmental Impact Assessment

<https://www.gov.scot/policies/environmental-assessment/environmental-impact-assessment-eia/>

Group websites:

Winds of Justice (WoJ) <http://www.windsofjustice.org.uk/>

Caithness Windfarm Information Forum (CWIF) <http://www.caithnesswindfarms.co.uk/>

Wind Energy's Absurd (WEA) <https://www.facebook.com/WindEnergysAbsurd>

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