



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01864

Name of petitioner

Aileen Jackson on behalf of Scotland Against Spin

Petition title

Increase the ability of communities to influence planning decisions for onshore windfarms

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to increase the ability of communities to influence planning decisions for onshore windfarms by—

- adopting English planning legislation for the determination of onshore wind farm developments;
- empowering local authorities to ensure local communities are given sufficient professional help to engage in the planning process; and
- appointing an independent advocate to ensure that local participants are not bullied and intimidated during public inquiries.

Action taken to resolve issues of concern before submitting the petition

We have written to Jamie Greene MSP, Brian Whittle MSP and Willie Rennie MSP. We have also written to Kevin Stewart MSP in his role as Minister for Local Government, Housing and Planning.

Scotland Against Spin has been a member of the Directorate for Planning and Environmental Appeals (DPEA) Stakeholders' Forum since 2013. It has been raising issues to which this Petition relates since 2019.

Petition background information

In 2020 the UK Government announced its intention to allow onshore wind farms to compete for subsidies in the next round of Contract for Difference (CfD) auctions which would allocate market support for projects coming forward towards the middle of the decade. This news was followed by a rapid rise in the submission of onshore wind farm planning applications, particularly in Scotland where National Planning Policy is very

supportive of development compared to the rest of the UK.

Onshore wind development is considered, by some, to be particularly lucrative for developers, owing to lower development costs. Some areas of rural Scotland are, we believe, at saturation point with large scale industrial wind power station proposals and developments which have been built or are currently going through the planning process.

In Scotland, wind energy schemes with generating capacity of 50MW or less are determined by Local Planning Authorities (LPA). Local Community Councils are statutory consultees for such planning applications. A refusal of planning permission regularly leads to an appeal by the developer. That appeal, delegated to the Directorate for Planning and Environmental Appeals (DPEA) by Scottish Ministers is often very costly to the LPA, particularly if a Reporter decides that an appeal should be determined by means of a Hearing or Public Inquiry.

Larger wind farms exceeding 50MW are determined at the outset by Scottish Ministers under the Electricity Act 1989, section 36 (s.36) rather than by the LPA. However, the LPA remains a statutory consultee for each s.36 planning application submitted to the Scottish Government's Energy Consents & Deployment Unit. Should an LPA formally object to a s.36 application, a Public Inquiry is automatically triggered. This results in significant expense to the LPA, in order for them to defend their objections. In the majority of cases, the objections of these LPAs and the Community Councils are overruled by the Scottish Ministers, acting on Reporters' recommendations.

In contrast, wind energy schemes in England are determined by the LPA, irrespective of size. LPAs are directed to only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a local or neighbourhood plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been satisfactorily addressed and therefore the proposal has community backing.

Whether a proposal has the backing of the affected local community is "a planning judgement for the local planning authority."

If an LPA rejects a planning application, then a developer has a right to appeal to the Secretary of State via the Planning Inspectorate.

This difference in legislation makes it significantly more difficult to obtain planning permission in England, and has led to an influx of developers seeking sites in Scotland, because they believe that the Scottish Government will overrule local decision making and grant consent for planning applications for onshore windfarms.

This has resulted in Scottish rural communities facing multiple applications simultaneously or consecutively. They are left simply overwhelmed and unable to manage, either in terms of the manpower required to scrutinise large technical documents and/or to fundraise in order to employ professional help. In turn, this leaves them particularly disadvantaged in a Public Inquiry situation where they face teams of professionals and the applicant's consultants, who are well able to present windfarm applications in their most favourable light, and at the same time seek to marginalise the evidence from public witnesses.

Live streaming and archived video footage of Inquiries visible on the DPEA website, has resulted in prospective public and lay participants witnessing what they perceive to be personal and vicious attacks on local objectors by experienced lawyers employing aggressive cross examination techniques. Whilst such techniques might be suitable in a criminal court setting, in those circumstances, the witness would have the protection of counsel or intervention by a judge if there was irrelevant and intimidating questioning. No such protection is provided for a public witness at a planning Public Inquiry; it is seen as a 'no holds barred' arena for the appellant's legal team. Many bona-fide people, giving of their best in the local interest feel they cannot cope with the psychological or financial strain of becoming involved in such a combative and unequal process. It seems to us that the appellant's legal team frequently seeks to discredit a public witness on a personal basis and, as a consequence, their opinions and evidence

public witness on a personal basis and, as a consequence, their opinions and evidence before the Inquiry are diminished and ignored. Some Community Councils and members of the public will simply withdraw their representation.

We believe that this is a one-sided process which acts as a barrier to effective public engagement in the planning process; the opposite result to that which the Scottish Government is seeking to achieve.

We believe that the adoption of planning legislation such as that in England where there is strict adherence to local development plans which have previously been the subject of public consultation, would direct developers to suitable sites where there is less likelihood of objection from local planning authorities and communities. Any community which had not had its concerns fully addressed could be confident that proposals would be justifiably refused and an appeal would be unlikely. This would encourage developers to have longer, more meaningful consultation with local communities before finalised plans are submitted. At present, the required community engagement exercise in Scotland seems to be largely a one-way consultation which we believe is regarded by many developers as simply a 'tick box' exercise. All parties would benefit as only plans likely to succeed and gain consent would progress to being formally submitted to LPAs.

We call on the Scottish Government to bring planning legislation for the determination of wind farm developments in line with that of England. We also call on the Scottish Government to find a way to restore "equality of arms" in the planning process by equipping LPA's to give positive assistance in the form of professional help to local communities, and to appoint someone to act as an independent advocate or adviser in public inquiries to ensure that local participants are not bullied and intimidated, and that their voices are heard.

Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/windfarms>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

NO

How many signatures have you collected so far?

0

Closing date for collecting signatures online

N/A

Comments to stimulate online discussion