



Open Spaces Society

OPEN SPACES SOCIETY POLICY ON WIND TURBINES

Information Sheet A4

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Wind turbines on common land - Open Spaces Society policy

INTRODUCTION

1. In this paper the Open Spaces Society sets out its policy on the development of wind-turbine power-stations on common land. One of the main aims of the Open Spaces Society is to ensure that common land and the rights of commoners and the public there are protected. It appears that the Westminster government and Welsh Assembly Government have no policy on the siting of wind turbines on common land and other access land. We accept the need of both governments to develop policies to encourage use of renewable energy but believe that there should be a presumption against development of wind-turbines on common land. Common land is not even mentioned in their policy statements – a deplorable omission.
2. This document will concentrate on the amenity value of commons and the protection of commoners' rights. The Open Spaces Society is unique in its efforts to protect commons and to promote their quiet enjoyment.

THE NEED FOR RENEWABLE ENERGY

3. It is clear to everyone that uncontrolled use of non-renewable resources for electricity generation cannot go on for ever. Alternatives for these non-renewable resources have to be found and tested. Wind energy is an obvious choice, as a large number of sites in the country are suitable for harvesting wind. Use of wind is a relatively clean way of generating electricity. It is the siting of the turbines that harness wind energy that has provoked discussion.
4. The government has set a target that renewable sources should supply 10 per cent of UK electricity in 2010. The government's aspiration is, by 2020, to double the electricity generated by renewable sources to 20 per cent.
5. The 10 per cent target is supported by a renewable obligation on UK energy suppliers, which runs until 2027. Under the obligation, electricity suppliers must provide an increasing proportion of their electricity sales from UK-generated renewables or pay a financial penalty.
6. The government also has commitments under the Kyoto Agreement to reduce carbon dioxide emissions.

7. The most profitable sites for wind-turbine development are those with the highest wind-speeds. On these sites more electricity will be generated, so the total amount of subsidy received will be higher too. There continue to be many planning applications for wind-monitoring masts and wind-turbine sites, particularly in upland and coastal areas of England and Wales.

ENGLAND

8. Planning Policy Statement (PPS) 22 (Renewable Energy), issued in 2004 for England replaces Planning Policy Guidance (PPG) 22, issued in 1993 for England and Wales. A large companion guide to this PPS includes guidance on good practice and a technical annex.
9. PPS 22 stipulates that the regional spatial strategy framework should contain three elements: targets, criteria-based policies and locational considerations.

Old guidance

10. PPG22 on renewable energy mentioned common land in the final paragraph of the main document. It stated that consent from the Secretary of State for Environment, Food and Rural Affairs may be required under section 194 of the Law of Property Act 1925 (now section 38 of the Commons Act 2006) if common land is involved. The PPG had an annex devoted to wind energy. It did not give a

presumption against development of wind-turbine sites in designated areas, and did not mention common land. It generally favoured large-scale wind-turbine stations, as they are more cost effective.

New guidance

11. It is regrettable that PPS 22 does not refer to common land nor to the requirement for consent under section 38 of the Commons Act 2006
12. In addition, it actively encourages development of further renewable-energy schemes.
13. Paragraph 1.4 of the companion guide states 'if the targets are to be met, a greater diversity of renewable-energy schemes will need to be developed in a wider variety of locations than in the past'. This is worrying.

Criteria-based policy

14. The policies at regional level will provide the link between targets and the identification of broad areas where different renewable technologies may be located without causing unacceptable environmental impacts.
15. Paragraph 2.18 requires a planning body to make clear in its policy that it will support renewable-energy proposals in locations where environmental, economic and social impacts can be addressed satisfactorily.

Regional targets

16. Paragraph 2 refers to the need for regional targets to take account

of regional environmental impacts as well as renewable-energy capacity.

17. Paragraph 3 advises that the review of regional targets should also take account of the region's environmental capacity for further renewable-energy development.

National designations

18. The guidance in paragraphs 11 and 12 (particularly when read in conjunction with PPS 7, *sustainable development in rural areas*) should be interpreted as a strong presumption against major renewable-energy proposals in national parks. The tests include 'exceptional circumstances' and 'public interest'. These are welcome.

Buffer zones

19. Paragraph 14 includes important recognition that the potential impact on designated areas of renewable-energy projects close to their boundaries will be a material consideration to be taken into account in determining planning applications.

Specific designated areas

20. PPS22 identifies several types of location where specific policies may be appropriate at the regional level:
- internationally-designated sites (nature or heritage conservation),

- nationally-designated areas (nature conservation or landscapes reasons),
- locally-designated areas (for nature conservation or for landscape reasons),
- green belt.

21. The appropriate treatment of these areas will vary according to the reasons for designation, and may be related to specific landscape, visual or nature conservation characteristics.

Landscape character and sensitivity

22. Landscape character and sensitivity are defined as a distinct and recognisable pattern of elements that occur consistently in a particular type of landscape.

23. This is directly relevant to common land because importance is placed on the forms and pattern of the landscape, and the unique character of common land fits this criterion.

Factors to consider in analysing the landscape and visual effect of individual applications include:

- landscape character areas,
- landscape sensitivity,
- landscape and visual analysis, and
- cumulative effects.

Other relevant guidance
Planning Policy Statement 7
(PPS7) *sustainable*
development in rural areas

24. The government's objective for rural areas is to afford the highest level of protection to our most valued landscapes. The government also states its commitment to the highest level of protection for national parks and areas of outstanding natural beauty (AONBs).
25. PPS7 states that regional spatial strategies should recognise the environmental, economic and social value of countryside that is of national, regional or sub-regional significance. We consider that this will be particularly helpful for persuading regional planning bodies to include appropriate references to national parks in regional spatial strategies.
26. Major developments should not take place in designated areas except in exceptional circumstances. Paragraph 22 clarifies that this includes major development proposals that raise issues of national significance. There is a requirement to subject such applications to the most rigorous examination and to demonstrate that the proposals are in the public interest.
27. However there has been a weakening of the test from an assessment of the need for development in terms of national considerations to an assessment of the need for the development '*including in*

terms of national considerations' (our emphasis).

WALES

Technical Advice Note (TAN) 8
- July 2005 *Planning for*
recyclable energy

28. TAN8 includes areas designated by the Welsh Assembly Government for potential wind-turbine sites, known as strategic search areas (SSAs).
29. Large areas of Wales were excluded from consideration as SSA by features that militate against larger wind-turbine development, including national parks and designated AONBs.
30. At paragraph 8.4 there is an implicit objective in 8 to 'maintain the integrity and quality of the landscape' within national parks and AONBs.
31. Most areas outside SSAs should remain free of large wind-power schemes.
32. Paragraph 2.13 states that the Welsh Assembly Government would support local planning authorities in introducing local policies in their development plans that restrict almost all wind-energy developments larger than 5MW to within SSAs and urban/industrial brown-field sites. It would be acceptable in such circumstances that planning permission for developments over 5MW outside SSAs may be refused.
33. It is extremely regrettable that the assembly government has removed common land as an absolute

constraint for development of wind turbines in the annex to TAN8.

Other relevant guidance

34. Ministerial Interim Planning Policy Statement 01/2005 states that an integrated approach should be adopted towards the planning for renewable-energy schemes. Developers will need to be sensitive to local circumstances, including siting in relation to local landforms and other planning considerations.

OPEN SPACES SOCIETY'S POLICY

35. There is insufficient recognition in national policy documents of the importance of common land, and the effect of wind-turbines on the enjoyment of the countryside.
36. Common land, by its nature, is relatively undisturbed, open countryside. It is used by people for quiet enjoyment, and is important as an amenity. Commons are among the last remaining pieces of land that are not fenced. This has a positive influence on the landscape as a whole, and gives a sense of freedom to walkers, riders and others enjoying the common. It is this openness and freedom that people seek, a place away from busy roads and towns. One or more wind turbines on a common, with the associated access tracks, overground power-lines, structures and noise, will spoil the very qualities the public

looks for on common land. This is especially the case in the uplands, where the areas most favoured for wind-turbine development coincide with the areas most frequented by walkers and riders: open: exposed hillsides.

37. The importance of the openness of common land has been acknowledged by Parliament in various acts aimed at restricting works etc on common land. Although these acts will still apply in cases of wind-turbine development, the national importance put on wind energy will create a presumption in favour of the development.
38. Another aspect not looked at by national policies is the effect of wind turbines on stock turned out on commons. Although wind turbines themselves only take up a limited amount of space, the construction of the site can have a devastating effect. During construction, much of the site will be unavailable for grazing. Where development has been approved (both by the relevant planning authority and the Secretary of State or Welsh Assembly Government), compensation for loss of grazing should be paid to the commoners at the very least.
39. An additional problem is that the system of hefting sheep on the common may be destroyed during construction. The hefting system (*cynefin* in Wales) is still widely operated and relies on the fact that sheep 'know' their part of the common and will not stray from it. Neutered rams stay on the outside of the flock to prevent young sheep from straying.

40. During construction of wind turbines (which may last two grazing seasons) the sheep will be excluded from all or part of their patch. The movement of a large number of heavy lorries across the common will further disturb the flocks. This will lead to sheep roaming further than their usual range, and the hefting system might be lost altogether. The breakdown of this system will increase the call for fencing of commons to prevent stock from straying onto roads etc. This is highly undesirable.

41. *The Open Spaces Society urges the government to revise PPS22 and the Welsh Assembly Government to revise TAN8 to include a more robust stance against the siting of wind turbines on common land and other access land, and a reminder that a proposal affecting common land will also require an application under section 38 of the Commons Act 2006 (England) or section 194 of the Law of Property Act 1925 (Wales) and consent from the Secretary of State or the National Assembly for Wales.*

42. *The Open Spaces Society opposes the development of wind-turbine power-stations on common land, in view of their adverse effect on the open landscape and historical qualities of commons, the peace and quiet, and people's enjoyment of commons.*

43. *It also opposes the siting of wind turbines on, or close to, land which is subject to a*

public right of access under the Countryside and Rights of Way Act 2000.

44. *The Open Spaces Society will, in addition, urge planning authorities and the Secretary of State and the National Assembly for Wales that, when deciding on applications for development of wind-turbine stations, the system of turning out animals on common land and the impact of construction of the site on that system are given serious consideration.*

Appendix 1

Examples

Tremeer Down, Napps Moor, Cornwall

Description

39 hectares of registered common land (CL 373) with rights of common for grazing

Applicant

National Power Plc
to construct two wind-turbines, access road and substation

OSS objected

Decision

Consent given 9 July 1991
Reference: DRA1/1077/553
DRA1/1077/608

Gunson Height, Kirkby Moor, Cumbria

Description

13980 square metres of registered common land with rights of common for grazing

Applicant
National Windpower Limited
to construct 14 wind-
turbines, mast and access
track

OSS

Decision
Consent given 6 October
1997
Reference CYD/1077/992

Cefn Croes, Ceredigion

Description
Cambrian Mountains

Applicant
Renewable Development
Company Ltd
to construct a 39 58.5MW
wind turbines

OSS objected
No inquiry was held

Decision
Consent granted 23 May
2002
Reference AAH/1/156
(Department of Trade and
Industry)

***Mynydd y Gwrhyd Common,
Neath Port Talbot***

Description
Registered common land

Applicant
Awel Aman Tawe
to construct for wind turbines

OSS objected

Decision
Consent refused
28 September 2006
Reference

APP/Y6930/A/05/1189610

***Bretherdale and Roundwaite,
Whinash, Nr Tebay, Cumbria***

Description
9 hectares of registered common
land with common rights for
grazing, estovers, and turbury

Applicant
West Coast Energy Ltd
to construct 24 wind turbines,
access tracks, masts and
substation

OSS objected
Inquiry held

Decision
Consent refused 2 March 2006
Reference CL1 96

Open Spaces Society
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*The Open Spaces Society is unable to
accept liability for any misinterpretation
of the law or any other error or omission
in the advice in this paper.*