

## **Environment and Sustainability Committee**

Inquiry into Energy Policy and Planning in Wales

EPP 236 – Environment Agency Wales

### **NATIONAL ASSEMBLY FOR WALES' ENVIRONMENT AND SUSTAINABILITY COMMITTEE**

#### **Inquiry into energy policy and planning in Wales**

#### **1. Our Role in Energy Policy and Planning**

We have two roles in energy policy and planning:

##### **An Advisor**

As an advisor to Government, we influence and inform legislation and planning policy.

We are also a statutory and non-statutory consultee in the spatial planning system. We provide environmental advice on nationally significant infrastructure proposals, local authority development plans and site specific planning applications.

Our primary role is to ensure the decision maker (in most cases the Local Planning Authority (LPA) or Infrastructure Planning Commission (IPC)) understands the environmental implications associated with a proposed development, over its lifetime. The decision maker's role is to balance the social, economic and environmental costs and benefits.

##### **A Regulator**

The Environment Agency regulates (including permitting):

- Industrial, energy, waste and agricultural installations
- Discharges to, and abstractions from, surface water and groundwater
- The use of radioactive substances

We also administer and regulate the EU Emissions Trading System (EUETS) and the CRC Energy Efficiency Scheme.

We want to achieve the best environmental outcomes from our planning and permitting roles and support sustainable development by providing clear, consistent and timely advice to inform the decision-making for our business and local authority customers.

Based on our experience as an advisor and regulator, we believe there are two things that could help to improve the planning process:

- A National Infrastructure Plan (NIP) – ensuring that large-scale infrastructure and development is planned strategically so that it is located in the best place for industry, communities and the environment
- Running the planning and permitting processes separately but at the same time

## **2. A National Infrastructure Plan (NIP)**

We suggest that greater consideration needs to be given to putting energy infrastructure in a place where it is right for industry, communities and the environment. However, the existing system doesn't always secure this outcome.

Wales needs a system which allows consideration of location and the environmental impact at a Wales wide scale i.e. proactive and strategic decision making to get the location right. Whilst we recognise that Welsh Government has identified strategic search areas for onshore wind generation, at the moment there is no overarching spatial plan which considers all types of infrastructure, including energy. The market is therefore left to determine the location. This has the potential to result in missed opportunities. This is reflected in examples such as where the location makes the use of combined heat and power unfavourable or impossible or development is inappropriately located, for example in flood risk areas.

### **The benefits**

A NIP could help to deliver Welsh Government policies on sustainable development and climate change by ensuring that Wales plans for the right mix of energy. To help achieve this, it would need to be informed by environmental evidence, such as Welsh Government's Natural Environment Framework (NEF) and other plans and strategies, such as the emerging Marine Plans.

To assist business and industry in making locational decisions, the NIP should identify where the environment is at, or near, its environmental capacity or protective environmental legal limit. By identifying such locations, it would help guide development to more suitable locations in Wales that may not be as constrained. This would give business and industry a clear steer on more suitable locations for different types of development and would thus manage expectations. It would also provide an indication of the issues that they would be likely to face depending on their chosen location and therefore the timescales and costs for gaining the necessary permissions.

It should also help to capitalise on the opportunities available. For example, by siting energy from waste facilities or biomass facilities in locations where the opportunity exists to use energy that would ordinarily be wasted, it could be used instead for the benefit of the local community (for example combined heat and power).

No one sector should be overly favoured or penalised. The NIP should not look to identify 'no-go' areas. It should:

- Identify areas better suited for certain developments
- Recognise that some areas may not be suitable for some types of industry without significant and potentially, costly mitigation to protect the environment
- Facilitate a discussion about what form of development could deliver more benefit for the local area

**Possible option:** Welsh Government to consider producing a NIP. Welsh Government would need to ensure that their NIP is identified as a primary consideration in the (UK) National Planning Policy Statements. Decisions taken by the IPC would then need to take full account of the NIP.

### **What are we doing**

From our perspective, the key environmental implications of development are currently being recognised and addressed too late in the site selection process. This can lead to or give the impression that the environment is a barrier to development as once a preferred option is identified, it is then difficult to retrospectively mitigate the environmental impacts.

We therefore need to ensure that business and industry take the environment properly into account whilst the development of an NIP is being considered. As already indicated, this needs to be ideally when developers are **searching** for sites. A NIP would potentially make this easier but in its absence, some early consideration could be achieved through better working of the current consenting regimes of planning and permitting. To help this process, we are currently developing a series of sector specific guidance notes for activities that we permit under Environmental Permitting to help inform planning decisions. These will cover:

- Pig and poultry
- Combustion installations
- Incineration and co-incineration of waste
- Landfill
- Anaerobic digestion
- Composting

They will set out the critical local factors that influence:

- How we respond to planning consultations (e.g. reasons why we might object or factors we wish planning to consider that are beyond the permitting remit)
- The likelihood of getting an environmental permit (e.g. reasons we might refuse an application)
- The likelihood of additional environmental protection measures being needed to obtain a permit
- Whether certain pollution control measures that may impact planning may be needed and therefore parallel tracking is advisable
- Instances where permitting requirements may have planning implications

- Planning considerations for proposed new developments near existing permitted activities
- Provision of information and advice

We believe the guidance will be useful in informing a NIP.

In the absence of a NIP, we intend to use the above guidance to inform our responses to planning consultations. This may well need to be done prior to receiving an Environmental Permit application. Our response to a planning consultation is likely to be better informed if we have the relevant environmental information contained within an Environmental Permit application. This leads to the option of running the planning and permitting processes separately, but at the same time, for a limited number of high risk or complex developments.

### **3. Running The Planning and Permitting Processes Together**

As well as needing planning permission, new energy infrastructure may require an environmental permit from us before it can operate. The developer can decide on the timing of these applications and they can be either sequential or in parallel.

We believe that for high risk and complex activities, it would be beneficial if developers applied for planning and environmental permits at the same time, as this would make for a clearer, more transparent process for decision makers and the public. For the public, this would bring clarity about what the two processes can consider.

From a developer's perspective, undertaking both processes at the same time could also allow for joint consultation to meet the needs of both the planning environmental impact assessment and the environmental permit consideration, thus reducing costs and timescales for obtaining the relative permissions.

**Possible option:** Welsh Government to consider describing those situations where a developer will need to submit applications for their planning permission and environmental permit at the same time.

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