

REF response to NPPF Chapter 9 – Supporting green energy and the environment

Q72: Do you agree that large onshore wind projects should be reintegrated into the NSIP regime?

No

Onshore wind projects are almost uniquely intrusive in terms of their impact on affected communities. Modern turbine models continue to increase in size, and it is now possible that onshore machines will exceed 240m, where once the very largest were 100m. The longer blades of newer turbines, and the increased tip speed, necessarily create more noise and would need to be sited significantly further from neighbours to preserve even basic amenity.

In March 2024 Labour pledged to “entrust power with local leaders, who know their area best and have skin in the game”. Putting onshore wind projects into the NSIP regime would negate this pledge and arbitrarily remove the ability of local communities to decide on the appropriate location of developments resulting in major environmental impacts, on landscape, natural environment, and residents. Furthermore, the NSIP regime is not appropriate in this case. Only local communities have the up-to-date, knowledge of their area, and local criteria-based policies should be applied in deciding whether these large-scale developments should be permitted.

The Government needs to ensure that local communities feel that the burdens and benefits of renewable energy developments in their area are shared fairly and that planning decisions are not being forced on them in the race for what many feel are overambitious targets.

Q73. Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

No

The changes to the NPPF are counterproductive because they give disproportionate weight to renewable and low carbon energy and insufficient weight to the environmental and economic disbenefits. We believe that some of the proposed changes are unlawful and are likely to create delay, confusion and added cost and will impede attaining the Government’s net zero goals.

Specifically, we take issue with the following parts of the Consultation Draft:

Para. 161(b) as proposed/Para 160(b) as existing: The ‘identification of suitable areas’ arose in the June 2015 Written Ministerial Statement concerning onshore wind farm applications and was later expressed in the now removed footnotes variously numbered in Government documents as 57 & 58 or 58 & 59 or 59 & 60. The proposed changes would extend the principle of ‘identification’ to all renewable energy developments.

The new requirement for local authorities to identify areas for all types of renewable energy development would impose an unreasonable time and cost burden on local authorities, which is surely not the intention. Furthermore, LPAs should not be mandated to ‘identify suitable areas’ in their Local Plans, because other bodies, for instance National Park Authorities, may be responsible for parts encompassed by the Local Plan. Current standard practice, namely the application of site and technology-specific, criteria-based local policies to each application, offers a more rational approach.

Accordingly, we recommend that, the principle of “identification of suitable areas” should also be removed along with the footnotes, leaving applications to be decided on their merits, according to the specific circumstances of each case.

However, if contrary to our recommendation, “identification” is to remain and to be extended, the LPA’s duty to apply general or locally specific criteria to their decision making must be reinforced.

Para. 164 is the old para. 163 and appears to have gone through several revisions and renumbering, so it is important to carefully contrast the current and proposed versions. Doing so highlights a transparent and legally-flawed fettering of a LPA’s discretion, undermining its statutory duty to consider each application on its merits.

The initial instruction that LPAs “support” renewable and low carbon planning applications is, in essence, an obligation on LPAs to grant consent to all renewable energy developments. In other words, it prejudices the planning balance. This is unreasonable and may be vulnerable to legal challenge.

The current wording requires a positive approach to each application but otherwise is consistent with the statutory obligation to consider each case on its merits. The NPPF cannot lawfully dictate the outcome of individual applications, overriding the policies of the development plan, environmental outcomes and other material considerations. That would breach statutory duty. Again, this is unreasonable and may be vulnerable to legal challenge.

Similarly, removing the words “...approve the application if its impacts are (or can be made) acceptable”, appears to reinforce the obligation on LPAs to grant renewable energy applications even if those impacts were regarded as unacceptable and could not be made acceptable. That would appear to contradict the requirement to consider the environmental effects, impacts, mitigation and reasonable alternatives, and would result in a lower level of environmental protection inconsistent with the Government’s aspirations and the UK’s obligations under international law. This seems very likely to be vulnerable to legal challenge.

Furthermore, it is not for the NPPF to dictate the “weight” that LPAs must apply to any given material consideration, including the proposal’s potential “contribution to renewable energy generation and a net zero future”. Implying that less “weight” should be applied to all other material considerations would likewise be unlawful. While “the contribution to renewable energy generation” is a material factor (materiality being a matter of law) the Courts have repeatedly confirmed that the “weight’ to be applied to each material consideration, in the particular local circumstances, is a matter entirely for the decision maker as long as it passes the Wednesbury tests of rationality and legality etc.

Q74. Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

Yes

The question appears to imply that the Government believes habitats are only to be valued for their usefulness in carbon sequestration. The range of nature conservation designations (SSSI, SAC, SPA, Ramsar, etc) exist for the protection of flora, fauna, geological and physiographical habitats. Clearly there may be many reasons why a site may be considered unsuitable for any particular development other than impact on carbon sequestration. The implication of the question is that these should be ignored in the case of renewable energy development which is surely not the intention.

A specific clause should be inserted that makes clear that support for renewable energy development does not negate or render irrelevant the importance of preserving sites designated for other environmental reasons.

Q75. Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

No

The need for local accountability and avoidance of unnecessary delay (see the response to Q72) is important and therefore most projects should be decided at local level and not under the NSIP regime.

The proposed threshold for onshore wind is lower (100 MW) than for solar (150 MW). This makes no sense given the local environmental impacts of large wind farms are often significantly greater than solar developments. Modern onshore turbines can be over 240m in height with a capacity of approaching 7 MW per turbine. A limit of 100 MW means that projects with as few as 15 turbines would be passed out of local control and over to the NSIP regime.

For this reason, we think the limit should be at least 200 MW.

Q76. Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

No

For similar reasons to those advanced in response to Q72 and Q75, we suggest a threshold of at least 200 MW.

Q77. If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

See response to Q75.

Q78. In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

Current planning policy fails to require developers to quantify and subsequently demonstrate that the green benefits claimed are actually delivered. It will come as no surprise to anyone if it is subsequently shown that while the net zero targets have apparently been met on paper, with all boxes ticked, they have not been met in actual fact.

Renewable energy developments frequently result in hostility from the community expected to host them. This is because they are perceived as unfairly inflicting on local communities environmental harms such as loss of visual amenity, increase in noise, loss of treasured habitats, for example, in the name of undemonstrated “public benefit”. Indeed, local observers tend to believe, and often correctly, that the only benefits that materialise are the personal financial benefits enjoyed by the developers and landowners.

An example of the exaggeration of developers is the recently opened Viking onshore wind farm which has been repeatedly described as “the most productive UK onshore wind farm” with a predicted output of 1.8 TWh per annum claimed in the planning documents and “validated by both Shetland Islands Council and the Scottish Government”.

(<https://www.vikingenergy.co.uk/about>) In the first month of operation, 60% of its predicted output had to be discarded because it is sited in an area remote from demand, its load factor has been 16% not the promised 46% and the cost of the electricity generated was £199 per MWh compared with the subsidy sought by the company of £67 per MWh (<https://www.ref.org.uk/ref-blog/382-newly-opened-viking-wind-farm-taking-nearly-three-times-its-cfd-price-in-august-2024>).

The local community could be forgiven for feeling deceived and exploited by a planning system which does not value their local environment and is cavalier about checking developers’ green claims. Planning policy could address the issue of vague assertions of “public benefit” by requiring developers to quantify the renewable energy that will be produced (taking into account the probability of curtailment), the cost to the public of its support and fining the developers if they fail to deliver what the public had been promised.

Planning policy should not accept hypothetical emissions savings assuming there are no constraints on grid capacity. That is unrealistic and will do nothing to achieve the Government's goals but will certainly alienate the public and cost them dearly.

Q79. What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

On the basis of REF's knowledge of calculating the production, emissions, costs and energy payback times for renewable generation, we strongly doubt the "technological readiness...." of planning authorities and central government "... and [the] availability of tools for accurate carbon accounting in plan-making and planning decisions".

A clear example of the woeful inadequacy of these tools is the calculation of the carbon payback time for Viking wind farm which was accepted by the Scottish planners as being 1.65 years. The calculations were based on an assumed load factor of 45%. From our own analysis of large onshore wind farm load factors, none exceeded a load factor of 33% in the last year and most were clustered around 20-25%. That the key assumption in the carbon calculation was obviously wrong wasn't recognised by the planning decision maker and there are no negative ramifications for either decision maker or developer for errors of this type.

Q81. Do you have any other comments on actions that can be taken through planning to address climate change?

Planning policy should require developers release into the public domain all data relied upon to calculate their claimed emissions savings and subsequently, if development is permitted and delivered, all data relied upon to validate the **actual** emissions savings. In this way a public databank can be accumulated that will demonstrate progress towards achieving the net zero goals and permit revisions to policy if it transpires that claims relied upon at the planning stage are unfounded.

Q82. Do you agree with removal of this text from the footnote?

No

The proposal is to remove from the NPPF the sentence: *The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.*

Surprisingly, this appears to be the only reference to the desirability of the UK growing some of its own food, and so permitting trading to advantage. If anything, this should be strengthened since the domestic production of foodstuffs is one of the key means of addressing climate change in an economic manner.

Q83. Are there other ways in which we can ensure that development supports and does not compromise food production?

Yes

There should be a presumption against the loss of prime agricultural land for any development for many reasons but certainly as a commitment to addressing climate change.