Community and Renewable Energy
Scheme Project Development Toolkit

Planning Module

Contents

How to use this toolkit................................................................................................................................................. 2
The planning system ....................................................................................................................................................... 2
Permitted development.................................................................................................................................................... 4
Planning and community groups ................................................................................................................................. 5
Planning and renewable energy ...................................................................................................................................... 5
The role of local planning authorities .......................................................................................................................... 6
Environmental impact assessment (EIA) ......................................................................................................................... 7
Consultancy support ....................................................................................................................................................... 8
Community engagement ................................................................................................................................................. 8
Appendix 1: Example of a CARES early wind project neighbourhood information letter......................... 10
How to use this toolkit

This Toolkit comprises two elements. One is a group of technology-specific modules to guide the development of specific projects using:

- wind energy;
- solar photovoltaic (PV);
- solar thermal
- heat pumps;
- biomass; and
- hydroelectricity.

The other element provides generic information on the various aspects of the development process. This module, Planning, is one of these All of the guidance in the generic elements of the Toolkit should be used in conjunction with the appropriate technology-specific documents listed above. In addition, before using this module, it is important to read the relevant technology section of the CARES Renewables Handbook (see http://www.localenergyscotland.org/resources-advice/renewables-handbook/).

The guidance in this document is likely to be of more use to those establishing a new community group than it is to community-based rural businesses or existing community-based organisations. However, some of the guidance on communication and consultation, and specific elements of project development will be of value to these groups.

Given this complexity, you may find it helpful to develop a specific action plan for your planning application and identify someone to lead this task.

The planning system

The Scottish Government has published a guide to the planning system in Scotland, which provides a good starting point for those unfamiliar with the system (see www.scotland.gov.uk/Publications/2009/08/11133705/1).

The planning system is there to address the legal requirement to obtain permission for the development or use of land. It is a way for planning authorities to control unsuitable development by refusing permission or by granting permission for appropriate development (generally subject to conditions). The legislation allows a council to approve developments that fit the plan and reject developments that do not. The Scottish planning system has three stages in its hierarchy of developments.

In addition to the Toolkits and Technology Guides Your local CARES Development Officer is there to support you through the Project Development Process - Local Energy Scotland has a network of Development Officers across Scotland to provide regional advice and support wherever you are.
• National development (e.g. new Forth crossing, high-speed rail link to London).
• Major development (e.g. 50 or more houses, onshore wind farm with an installed capacity of over 20MW – other criteria also apply).
• Local development (all developments that are not national or major).

Most community-scale developments are expected to fall under the local development category and will not be required to undertake activities such as a formal pre-application consultation process. The main pieces of legislation that form the planning system today are the Town and Country Planning (Scotland) Act 1997 and the Planning etc. (Scotland) Act 2006.

Visit www.scotland.gov.uk/Topics/Built-Environment/planning for more information about how the planning system operates in Scotland.

Delivery of the planning services in Scotland is through the 32 local authorities and two national park authorities. This means that planning in Scotland is essentially a local function. The planning authority in your area should be your first point of contact for all planning applications and enquiries. It is helpful to discuss any proposals at the earliest opportunity (e.g. initial viability assessment stage) and establish a dialogue with the relevant planning authority before you make an application.

Having an opportunity to get advice and feedback about your proposal before you make an application is an invaluable part of the planning process. It can highlight potential showstoppers that may halt your project before significant time, effort and money has been spent.

Hence, as well as contacting your local CARES development officer, early contact with a local planning officer will help identify planning considerations that you should focus on.

To make an enquiry it is useful to prepare the following basic information:

• the address (or co-ordinates) of the location;
• a written description of your proposal;
• a site plan at a scale of not less than 1:2500 or a plan marked with clear metric measurements;
• if you propose building works, a sketch of the proposal, to scale or with metric measurements (height, width, length, distance from boundaries, etc); and
• if you propose a change of use, details of the existing and proposed uses.

Photographs and any other additional information that will help planning officers provide the best advice.

Your local authority may have specific planning policies or planning guidance for renewable energy projects referred to as Supplementary Planning Guidance. It is essential that you become familiar
with these and how they may apply to the type of project that you envisage developing. Examples can be seen here:

- Scottish Borders Council (http://www.scotborders.gov.uk/directory_record/23635/renewable_energy); and

Development management (formerly called development control) is the term used for the process of deciding whether to grant or refuse planning permission and other related consents. As described above, planning authorities normally deal with applications for planning permission; Scottish Ministers only become involved in a very small number of cases where it involves a matter of genuine national interest.

The Town and Country Planning (Scotland) Act 1997 requires that decisions on planning applications are made in accordance with the local development plan unless material considerations indicate otherwise. These material considerations should be related to the development and use of land.


As well as making the supplementary planning guidance available online, each planning authority will have an online register of current and past planning applications. These include:

- the planning application (e.g. forms, maps, supporting reports, etc);
- the responses from statutory consultees (e.g. Scottish Environment Protection Agency (SEPA), Scottish National Heritage (SNH));
- responses from the public; and
- reports and decisions made by the planning authority.

These can provide an invaluable source of insight into the views of the key organisations into renewable energy in your area.

Searching for this information can often be done via a map search, which does not require the planning details of each previous application.

Examples can be seen here:

- Fife Council (see http://www.fifedirect.org.uk/topics/index.cfm?fuseaction=subject.display&subjectid=62C57486-65BF-00F7-D6E1AAAC58F44C33&themaid=2B482E89-1CC4-E06A-52FBA69F838F4D24);
- Angus Council (see http://www.angus.gov.uk/planning/); and
- Loch Lomond & The Trossachs National Park (see http://www.lochlomond-trossachs.org/planning/).

**Permitted development**

Some renewable energy projects are permitted without planning permission (called permitted development).
The full details are included in Part 1B Installation of non-domestic microgeneration equipment of the Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (see http://www.legislation.gov.uk/ssi/2011/136/pdfs/ssi_20110136_en.pdf). It should be noted that separate permitted development rules apply to renewable energy systems fitted to dwellings. These are not within the scope of the CARES programme.

Permitted development rights for non-domestic microgeneration are available for:

- ground-source and water source heat pumps;
- solar PV or solar thermal systems;
- generation (including cogeneration) of energy from burning biomass;
- generation (including cogeneration) of energy from anaerobic digestion of biomass; and
- storing of biomass.

While the rights may not apply to all systems, there are important definitions that apply to each category of microgeneration. Examples of these include:

- restrictions in areas such as national parks, on listed buildings, proximity to airports;
- size restrictions such as 50kW for solar PV and 45kW for solar thermal; and
- constraints over visibility (e.g. for solar PV and solar thermal).

These definitions need to be studied carefully. Given the cost and risk associated with planning, many schemes are developed to avoid the need for planning permission. For example, there are a significant number of non-domestic solar PV schemes in Scotland just under the 50kW threshold.

Other forms of non-domestic renewable energy (e.g. wind, hydro) are not offered permitted development rights, hence planning applications will be needed in all cases.

**Planning and community groups**

Planning Aid for Scotland (PAS) is an independent and impartial organisation that works across Scotland to help people shape their communities and engage more effectively with the planning system. PAS provides specific guidance for community-led development (see www.planningaidscotland.org.uk/images/PAS_community_developments.pdf).

**Planning and renewable energy**

PAS provides specific guidance on renewable energy projects. In addition, the Scottish Government provides planning policy guidance on renewable energy (see www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/themes/renewables). The PAS guidance gives specific advice for each technology including guidance on location, cumulative impacts, etc and provides links to other guidance on particular areas of potential concern (e.g. landscape issues, good practice during construction and specific issues with wildlife).
The role of local planning authorities

Planning authorities will generally discuss renewable energy in their local development plan and, if relevant, their strategic development plan.

Local development plans contain policies that are designed to balance the benefits of renewable energy developments against the need to protect natural and cultural heritage, and landscape values. They also provide helpful guidance on the information that will be required by applicants when considering renewable energy developments and the best practice to ensure that development takes full account of potential impacts on the natural and built environment.

The local plan will include:

- planning and development in the local authority;
- local development strategy; and
- enabling and management policies produced by the local authority.

In some cases, planning authorities will also produce supplementary planning guidance covering specific types of renewable energy.

The supplementary planning guidance might cover:

- key sensitivities and standards;
- technical feasibility and scope;
- locational guidance;
- natural and built heritage considerations; and
- process advice and links to other regulatory regimes.

It is important that this national and local guidance is followed. If it is not, it is highly likely that a planning application will be harder and more costly to obtain and may even be refused.

Engaging with your local planning officer early in the development of your project will increase the likelihood of your planning application being successful. It can identify unsuitable proposals at an early stage and lead to better quality submissions, which can be dealt with faster. At the pre-application stage, a screening opinion will normally also be undertaken. A screening opinion is the process whereby the planning authority determines whether an environmental impact assessment (EIA) is required.

The contact details for your local authority planning officer can be found on your local authority’s website.

The supplementary planning guidance of some local authorities provides an overview of the planning process. Figure 1 is the overview provided by Loch Lomond and The Trossachs National Park.
Environmental impact assessment (EIA)

EIA is the process by which information about the likely significant environmental effects of a project are gathered and reported. The EIA also identifies the potential for reducing, avoiding or offsetting any adverse impacts. This information is collected and assessed by the developer. It must be taken into account by the planning authority together with comments received from the consultation authorities and the public before any planning decisions are made (see [www.scotland.gov.uk/Resource/Doc/212607/0117172.pdf](http://www.scotland.gov.uk/Resource/Doc/212607/0117172.pdf)).

An EIA may be required where a development is of a type described in Schedule 1 or Schedule 2 to the Regulations as described below.
Schedule 1 developments require an EIA in every case. Examples include large-scale developments with obvious potential for environmental effects, such as crude oil refineries, major chemical and steel works, and larger scale quarries and open-cast mines.

Schedule 2 developments require an EIA only if the specific development in question is judged likely to give rise to ‘significant’ environmental effects. To determine whether an EIA is needed, a screening opinion will usually be required. Examples of Schedule 2 development include certain large pig and poultry rearing units, certain energy generation developments and some urban development projects. Detailed guidance on identifying Schedule 2 development is provided in Planning Circular 3/2011 (see www.scotland.gov.uk/Publications/2011/06/01084419/0).

In the case of community-based energy projects, it is likely to be the location and not the size of the proposed development that will dictate the need for an EIA.

It is recommended that a scoping opinion from the local planning authority is requested for all applications subject to EIA. This helps to identify key areas that should be covered (such as noise pollution or ecological impacts) and avoids subsequent delays in processing the application.

Consultancy support

No matter how simple the Scottish Government has tried to make the process of preparing and making a planning application, and how much support from organisations such as PAS is available, it can still be a major undertaking. The complexity of the process can also be linked to technology, with large wind projects presenting more challenges than large solar schemes.

For this reason, you may choose to employ a specialist planning consultant to help you gain planning permission. This will get around the issues of complexity if you are not familiar with the planning process and can be cost-effective relative to having to deal with a planning rejection.

It is important to note that the cost of obtaining planning permission can be high. The wind industry has presented evidence that it can cost £50,000 to make a planning application for a 500kW wind turbine (see www.publications.parliament.uk/pa/cm201314/cmselect/cmenergy/180/18007.htm).

Your local CARES development officer can assist you to apply for a CARES loan which can cover up to 95% of pre-planning costs. However, it is important for a community group to be aware of the potential cost of project development beyond this phase. Costs such as staged turbine payments and grid connection costs will generally have to be paid before capital for development has been secured by a major lender. CARES can also provide access to post-planning loans that can provide gap funding until your project has reached financial close. The finance module covers this in more detail.

Community engagement

It is important to note that the community group will, in effect, become an energy developer and so must take responsibility for community engagement, not least as part of the planning process (see www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/themes/communities). The Development Trusts Association Scotland has guidance on
community development plans (see http://www.dtascot.org.uk/). More information on community engagement can be found in the Toolkit section Establishing a Community Group.

It is well recognised that early engagement of the local community will reduce the likelihood of a planning application being rejected. It is a requirement of obtaining a pre-planning loan from CARES that neighbours are notified. An example neighbour notification letter is provided in the Appendix.

This should be sent to all residents and businesses within a 1km radius of the project development.

In addition, under the Town and Country Planning (Scotland) Act, you will be required to notify neighbours of your submission of a planning application. Your planning consultant will provide you with further information on this.

**CARES Finance Ready Tool**

All information related to your planning application and any conditions, should be included and updated within your CARES Investment Ready project monitoring tool. Obtaining planning permission is a key requirement before lenders will fund a project. Showing progress in submitting your planning application is important in the early stages of engaging with a lender. Your CARES Finance Ready Tool shows the progress you have made and highlights your awareness of the steps you need to complete, which will be sufficient to initiate discussions with lenders.
Appendix 1: Example of a CARES early wind project neighbourhood information letter.

This should be sent to properties within 1km of the turbine.

Date

Rural business/Community Group name
address

Correspondent name
Correspondent address

Dear Sir or Madam

Early notification regarding our intention to develop $X$ wind turbine(s) on land at $XXX$.

We are writing to make you aware that we are starting the process to develop a wind turbine at the above location.

As a neighbour, I am writing to you and other neighbours within 1km of the turbine to make you aware of our plans. This will be a locally owned renewable project which will *(delete as appropriate)* be fully community owned investing profits back into local community projects *or* contribute a proportion of the income (at least £10k/MW installed) to support local community causes.

If feasible, we intend to submit a planning application at which point there will be full details of the project and an opportunity for you to engage in the planning process.

I look forward to hearing from you as our project progresses.

Yours faithfully,

[Signoff]

Commissioned by the Scottish Government and Energy Saving Trust.

Produced by Local Energy Scotland and Ricardo-AEA Ltd


This document was last updated December 2013