

Energy Directorate
Renewable Energy Division

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Franck David
Assistant Clerk to the Committee
Public Petitions Committee
TG.01
The Scottish Parliament
EDINBURGH
EH99 1SP

Your ref: PE1357
Our ref:

11 February 2011

Dear Franck,

CONSIDERATION OF PETITION PE1357

Thank you for your letter of 25 November 2010 regarding the above petition by Tessa Packard on behalf of Black Mountain Farms, Facombe Estates, Horseupcleugh Estate, Burncastle Estate and Cranshaws and Longformacus Community Councils in which you seek a response to the issues raised in the petitioner's latest submissions (PE1357/B and PE1357/C).

Submission PE1357B again raises the petitioner's concerns surrounding the appropriateness of the Energy Consents and Deployment Unit's (ECDU) evaluation of public representations and interaction with members of the public. Much of this has already been answered by the Minister in his previous letter to the Committee in response to the Committee's second question.

I do note however, that the petitioners have suggested that it is a "regrettable fact that ECDU does not have expert planning, landscape or environmental expertise in-house". I would like to answer this by stressing that the whole point of the full consultation undertaken for each Electricity Act application is that that very expertise is provided through the consultation by the relevant planning authority, Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and others. Furthermore, the ECDU can and does regularly consult and seek advice from the Scottish Government's qualified planners in our Directorate for the Built Environment and our Research and Science Division who provide advice on species, habitats, biodiversity and ecosystems.

The petitioner raises the issue of a perceived imbalance between the performance of the consents system north and south of the border. This is a difficult comparison to make objectively considering each wind farm is assessed on its own merits and the respective

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consents units can only determine the applications which are submitted. However, looking at the statistics, the Scottish Government has considered 25 section 36 wind farm applications, consenting 20 and rejecting 5 (refusal rate of 20%). The Secretary of State, since 2007, has considered 6 onshore wind applications, consenting 5 and rejecting 1¹ (refusal rate of 16.6%). It could be argued therefore it is actually more difficult to secure a consent in Scotland.

The ECDU refutes the petitioner's accusation that it has "sought to assist developers to actively avoid Public Inquiries". The reality is that where a developer indicates that they would like to work with a planning authority to overcome that planning authority's objection, and where the planning authority indicates that they will engage with the developer, the ECDU may hold off from recommending the application is referred to a public inquiry until it becomes clear whether or not the planning authority wishes to withdraw their objection. This is entirely in keeping with Schedule 8 of the Electricity Act which states that a public inquiry is to be held where "the relevant planning authority... object to the application and do not withdraw their objection".

Unfortunately I am unable to expand on the Ministers previous answer to question 3 as the Scottish Government does not hold information on how many local authority-consented wind farms lie within a special designation.

Concerning the petitioners 'other range of material issues', I can confirm that the ECDU has no difficulty in discharging the s36 conditions of any wind farm consent when required. The respective planning authorities are responsible for discharging the deemed planning conditions of a consent and I am not placed to comment on each relevant planning authority's staff numbers nor resources.

When, after consultation, Habitat Management Plans have been regarded as necessary, they have always been a requirement of consent. The environmental impacts of a wind farm development must be fully and comprehensively outlined in an application's environmental statement and considered prior to determination. The finer detail required for a Habitat Management Plan is usually not available until more detailed design work is undertaken by the developer following consent.

Scottish Ministers have undertaken Appropriate Assessments whenever required to do so by SNH. In the case of Calliacher, the wind farm application was rejected under landscape and visual grounds and an appropriate assessment was therefore not undertaken. I understand an Appropriate Assessment on the River Tay Special Area of Conservation was undertaken by the planning authority as part of the Town and Country Planning (Scotland) Act application.

The ECDU do engage and occasionally meet with communities' representatives or professional advisers where appropriate, have done so in the past, and continue to do so.

Regarding the supplementary note to the Committee (PE1357/C), this follows the recent decision by Scottish Ministers to consent the Fallago Rig wind farm following a full and thorough public inquiry process. I cannot at this time offer any comment on document PE1357/C as the Fallago Rig decision is currently subject to a judicial review.

¹ Figures from Department of Energy and Climate Change as of 4 Feb 2011
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I hope that this addresses any further points raised in the recent submissions to the Committee's satisfaction.

Yours sincerely,

Simon Coote
Head of Energy Consents and Deployment
The Scottish Government