



## Planning Module

### Toolkit structure

The Local Energy Toolkit is intended to be used as a reference by Community Groups of all kinds. This module is one part of a series of documents forming the Local Energy Toolkit and is designed to cover all sizes of project, although the scale and complexity of multi-MW projects may require more detailed evaluation than smaller projects. Other modules that may also be of particular interest to those reading this module are:

- Establishing a community group
- Project finance
- Securing the site
- Grid connection
- The Feed-in-Tariff

This toolkit builds on the work completed for the Scottish Government's Community and Renewable Energy Scheme (CARES) by Local Energy Scotland and Ricardo-AEA.

### Module structure

This module is structured in four parts to act as a guide and reference document for Community Groups in the development of a renewable energy project in Wales:

#### **The planning system**

The planning system and renewable energy  
Permitted development

#### **The role of local planning authorities**

An introduction to planning authorities and their responsibilities.

#### **Planning application**

A more detailed look at the planning application and process, including how and when to contact your local planning authority

#### **Further information**

Appropriate links, definitions and references to other information, collated for quick reference.

## The planning system

The town and country planning system places a legal requirement on developers 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 their local aspirations and reject developments those that do not.

In Wales, the planning system is operated by the Welsh Government and the local planning authorities.

- Welsh Government sets the legal framework for the planning system and makes planning policy for Wales.
- Local planning authorities are responsible for preparing Local Development Plans (LDP) for their areas. LDPs have already been or are being published by local planning authorities and establish the detailed land-use planning policies for each county or county borough council and each National Park.

Planning Policy Wales sets out the land use planning policies of the Welsh Government. This over-arching policy is supplemented by a series of Technical Advice Notes (TANs). The 'Wales Spatial Plan – People, Places, Futures' (updated in 2008) sets a strategic framework to guide sustainable development and future policy interventions.

The policies in Planning Policy Wales, the TANs and the Wales Spatial Plan must be taken into account by local planning authorities in the preparation of development plans and in determining planning applications.

### The planning system and renewable energy

Most, if not all, community developments are expected to fall into the local development category and therefore with local planning authorities as the decision-makers - as per the Town and Country Planning Act 1990. It is important for community groups to identify their local planning authority and establish a dialogue with them as early as possible in the project development. Applications for developments with an installed capacity of greater than 50MW in Wales are determined by UK Government under a separate system.

There are specific planning considerations that should be taken into account when developing a renewable energy project. Local planning authorities develop Local Development Plans using Planning Policy Wales, the TANs and the Wales Spatial Plan as guidance. Section 12.8 of Technical Advice Note 8 (TAN 8) relates specifically to the planning context for renewable energy.

TAN 8 was developed to assist local planning authorities in developing policies for renewable energy in their local development plans. It also provides information on considerations that should be taken into account for a range of renewable and low carbon energy technologies, such as onshore and offshore wind, anaerobic digestion, biofuels, combined heat and power, district heating, energy from waste, fuel crops, hydropower, methane, solar thermal and solar photovoltaics. Any community group interested in developing a renewable energy project should familiarise itself with TAN 8 guidance for the technology under consideration. In the case of on-shore wind there is a spatial element to the advice and this will have been taken into account by the local planning authority in line with the Practise Guidance: Planning Implications of Renewable and Low Carbon Energy Development.

### Permitted development

Some renewable energy projects are permitted through a development order i.e. without the need to apply for a specific planning permission. This is called permitted development. For non-domestic buildings, permitted development rights exist for solar panels, ground and

water source heat pumps, and flues forming part of biomass and combined heat and power systems (see further Information).

Given the cost and risk associated with obtaining planning permission, 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 England and Wales that are just under the 50kW threshold.

The regulations on permitted development contain important definitions as to where development is not permitted within each class. If community groups are considering developing a project that they feel would fall under permitted development they should consult as early as possible with their local planning authority to ensure that this is agreed. It would be sensible to have this agreement set out in writing.

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

## The role of local planning authorities

The role of local planning authorities includes preparation of Local Development Plans and the determination of planning applications. When developing a Local Development Plan, local planning authorities should consider what the local potential is for renewable and local carbon energy generation. This should include consideration of which technologies could be accommodated, at what scale, and the policies needed to encourage the right development in the right places.

Local Development Plans should 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 will 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.

When reading your Local Development Plan, be sure to also read the policies on economic regeneration, social matters and the environment. Your renewable energy scheme will need to be placed into context with these policies when communicating with the local planning authority.

In some cases, local planning authorities will also produce supplementary planning guidance documents covering specific types of renewable energy. The supplementary planning guidance might cover:

- Key sensitivities and standards
- Technical feasibility and scope
- Location guidance
- Natural and built heritage considerations
- Process advice and links to other regulatory regimes.

**It is important that your community follows local guidance when developing and designing a project. If you do not, it is highly likely that a planning application will be harder and more costly to obtain and may well be refused.**

The planning authority in your area should be your first point of contact for all planning applications and enquiries. It is helpful to engage with your local planning authority early in the development of your project and discuss any proposals at the earliest opportunity (e.g. initial viability assessment stage).

## Planning application

### Pre-application considerations

Before preparing and submitting a planning application, there are a number of steps that a community group should carry out to help improve the chances of a successful planning application.

#### ***Step 1: Identify your local planning authority.***

Identify your local planning authority and review both the Local Development Plan and any specific guidance relating to renewable energy. Information on your local planning authority can be found via the Planning Portal (see further information). It can also be useful to review the planning database of the local planning authority to identify planning applications of projects of a similar nature to the community group's proposed development. Reviewing such planning applications can help to identify specific considerations that will need to be taken into account. If proposals have been rejected then read and analyse the reasons for refusal. Ask to see, or download the officer's report to committee in respect of similar applications as these will give more detail on the reasoning behind particular decisions. This will also reveal whether the officer's recommendation was accepted by the elected members (councillors).

#### ***Step 2: Establish a dialogue with your local planning authority.***

Establishing a positive working dialogue with the relevant planning authority before you make an application can increase the likelihood of your planning application being successful. This dialogue can help identify unsuitable proposals or major concerns at an early stage and lead to better quality applications, which can be dealt with faster by the planning authority.

Early contact with a local planning officer will provide your community group with pre-planning guidance, help identify material planning considerations upon which you should focus and identify relevant surveys that need to be completed. It would be beneficial if such contact could be carried out face to face on the site of the proposed development.

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

- The address (or National Grid Reference co-ordinates) of the proposed development
- 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.)
- If you propose a change of land use, details of the existing and proposed uses.

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

#### ***Step 3: Engage with the local community.***

It is important to note that the community group will, in effect, become an energy developer and so must take responsibility for community engagement. Community engagement should begin as early as possible in the development process, particularly once there is some level of detail around the potential size, outputs and benefits of a development (i.e. following a project feasibility study). More information on community engagement can be found in the Toolkit section '**Establishing a Community Group**'.

It is well recognised that early and meaningful engagement of the local community can reduce the likelihood of a planning application being rejected. It is recommended that, at the very least, neighbours to your proposed site are notified.

If you have a planning consultant, they can provide you with further information on community engagement in the planning process. It is important that when you engage with the community you communicate about your scheme clearly and consistently, including:

- Communicating benefits specifically and in relation to policy objectives in the LDP
- Listening to and addressing concerns.

If you seek letters of support for your scheme from members of the public these letters must relate specifically to material planning considerations to give them the best chance of helping your application. For example, a letter saying that the scheme brings economic benefit to the area is too vague, whereas a letter that says *specifically how* the scheme contributes to economic regeneration, as set out as a priority in policy X of the LDP, is much more likely to be taken into account by the planning authority.

#### **Step 4: Collate information required for the planning application.**

Ask your local planning authority what information they require to be included within the planning application. All information required for the planning application will need to be collated, paying specific attention to aspects highlighted in the first four steps. In particular, any elements highlighted by the planning officer will require consideration. These could include an Environmental Statement (ES) or the impact of the development on the landscape and any cumulative landscape and visual impacts.

Environmental Impact Assessment (EIA) is undertaken by the local planning authority but it is the responsibility of the applicant to provide information about the likely significant environmental effects of a project. This information is known as an Environmental Statement. The ES also identifies the potential for reducing, avoiding or offsetting any adverse impacts. The planning authority will consider the information in the ES together with comments received from the various statutory and non-statutory consultees, and the public before any planning decisions are made.

The local planning authority will complete an EIA screening exercise, in order to determine whether a formal EIA is required for the development. This will take account of specific criteria set out by regulation and guidance - such as the characteristics and location of the development and characteristics of the potential impact. The community group can request the local planning authority provide a screening opinion on the need for Environmental Impact Assessment (EIA). This would typically be carried out when completing the feasibility study.

Even if an EIA is not required, consideration will need to be given to the impact on biodiversity, the landscape and any cumulative impacts of the proposed development. This will be an important part of the planning process, particularly for developments that will be more visible in the landscape, such as wind turbines. This is of particular importance in protected areas or in the vicinity of protected sites. Check the constraints or proposal maps in the LDP, additionally a directory on protected areas designations in England, Scotland and Wales is provided by the Joint Nature Conservation Committee (JNCC). This is provided in the Further Information section.

If your scheme is intended to provide any economic or social benefits these need to be clearly communicated as part of your planning application. Documents that could help to do this include:

- The Memorandum and Articles of Association or Rules of your community social enterprise and special purpose development company (if set up at this point)
- An economic impact assessment of your scheme showing its impact on job creation, skills development/volunteering opportunities
- Any agreements between partner organisations that demonstrate where money will go

- A policy impact assessment- this does not need to be long but should explicitly show that you have considered how your scheme is contributing to local priorities such as regeneration.
- Letters of support from the public relating your scheme to material planning considerations such as job creation, impact on the local environment and providing money for named local projects that are seen to be contributing to policy objectives.

## Submitting a planning application

Once the pre-application steps have been completed, the next step will be for the community group to submit a planning application to the local planning authority. Steps 1 to 5 should ensure that the community group has all the required information in hand and a dialogue already established with the local planning authority.

### ***Step 5: Planning application process***

There are a number of stages in the planning application process.

1. **Submit planning application.** When submitting a planning application, applicants should take note of the specific local planning authority planning guidance on making an application. There are statutory requirements in terms of the notification of land-owners and this is the responsibility of the applicant.
2. **Notification and consultation with community and statutory consultees.** The planning authority is required to consult various parties and encouraged to consult others. The statutory minimum consultation period is 21 days but this will very often be extended – particularly on more complex cases. Specific publicity requirements will depend on the application.
3. **Determination of application.** The planning application will be determined in accordance with the development plan unless material considerations indicate otherwise. The local planning authority has eight weeks to make a decision on most applications and 13 weeks for major applications. The limit is increased to 16 weeks where there is an EIA involved. If the application is not determined within the relevant period then the applicant has the right to appeal on non-determination (i.e. against a deemed refusal) but the norm is for an extension of time to be agreed with the planning authority.
4. **Decision.** Planning officers usually decide smaller developments under delegated decision-making powers. Larger and more controversial developments are decided by planning committee. The planning officer will write a report with a recommendation but it is the elected members that will make the decision.
5. **Option to appeal decision.** An applicant has a right to appeal to the Welsh Ministers, via the Planning Inspectorate, if the local planning authority refuses to give planning permission, grants it subject to unacceptable conditions or fails to deal with an application within the statutory time limit. The appointed Inspector will usually make the decision on an appeal although they may be 'recovered' for decision by the relevant Minister in the Welsh Government.

## Consultancy support

Even with the guidance that has been developed to make the process of preparing and submitting a planning application, it can still be a major undertaking. The complexity of the process will vary depending upon the technology, the scale of the development and the chosen site, with large wind projects for instance usually 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 when judged against the likelihood of success without specialist advice. It is very unlikely that a community group will have the skills and experience required to submit an adequate Environmental Statement.

It is important to note that the cost of obtaining planning permission can be high. In a report from the Parliamentary Energy and Climate Change Committee, the wind industry presented evidence that it can cost £50,000 to make a planning application for a 500kW wind turbine (see further information; Energy and Climate Change – Sixth Report).

It is important for a community group to be aware of the potential cost of project development, not just at the pre-planning and planning phase, but all the way through to development. 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. The **Finance Module** covers costs of development in more detail.

### **Keeping records**

All information related to your pre-planning activities and correspondence, as well as your planning application and any conditions, should be included and updated within a single, secure central repository (either local or an online store). 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 records will need to show the progress you have made and highlight your awareness of the steps you need to complete. This should be sufficient to initiate discussions with lenders.

## Further information

- To establish who your local planning authority is, and to view information on that planning authority, see the following:  
[http://www.planningportal.gov.uk/wps/portal/genpub\\_LocalInformation](http://www.planningportal.gov.uk/wps/portal/genpub_LocalInformation)
- For those interested in the overarching land use planning policy for Wales, further information on **Planning Policy Wales** can be found at:  
<http://gov.wales/topics/planning/policy/ppw/?lang=en>
- There are a number of national **Technical Advice Notes** (TANs) (<http://gov.wales/topics/planning/policy/tans/?lang=en>) that support Planning Policy Wales. **Technical Advice Note (TAN) 8 on renewable energy** (published in 2005) (<http://gov.wales/topics/planning/policy/tans/tan8/?lang=en>) is of relevance to those seeking planning permission for a renewable energy development.
- For those interested in the guidance available to local planning authorities when deciding on applications for renewables: **Practice Guidance – Planning Implications of Renewable and Low Carbon Energy Development** at <http://gov.wales/topics/planning/policy/guidanceandleaflets/planningimplications/?lang=en>
- For those interested in the Welsh strategic framework that guides future development and policy interventions, further information on the **Wales Spatial Plan – People, Places, Futures** can be found at:  
<http://gov.wales/docs/desh/publications/130701wales-spatial-plan-2008-update-en.pdf>.
- **Energy Wales: A low carbon transition** (<http://gov.wales/topics/environmentcountryside/energy/energywales/?lang=en>) sets out what the Welsh Government intend to do to drive the change to a sustainable, low carbon economy for Wales. This gives an overview of the plans for renewable energy in Wales, which can provide those interested with useful information on the wider context.

Primary legislation relating to the planning context in Wales includes:

- The **Town and Country Planning Act 1990** (<http://www.legislation.gov.uk/ukpga/1990/8/contents>) sets out the role of local planning authorities. Most community-scale developments are expected to fall into the local development category and therefore to local planning authorities and will be subject to local development plan policies.
- The **Planning Act 2008**, which sets out details for the administration of applications for nationally significant infrastructure projects. This would only include projects above 50MW and is unlikely to be relevant to community-scale developments (<http://www.legislation.gov.uk/ukpga/2008/29/contents>).
- **Permitted development rights** for non-domestic microgeneration are covered under the Town and Country (General Permitted Development) (Amendment) (Wales) (No.2) Order 2012 ([http://gov.wales/topics/planning/policy/dear-cpo-letters/nondomcpoletter/?lang=enhttp://www.legislation.gov.uk/uksi/2012/749/pdfs/uk\\_si\\_20120749\\_en.pdf](http://gov.wales/topics/planning/policy/dear-cpo-letters/nondomcpoletter/?lang=enhttp://www.legislation.gov.uk/uksi/2012/749/pdfs/uk_si_20120749_en.pdf)).



Other useful information relating to planning includes the following:

- Frequently asked questions on making planning applications in Wales can be found on the Welsh Government website:  
<http://gov.wales/topics/planning/faqs/makingplanningapps/?lang=en>
- Further information on the regulations relating to Environmental Impact Assessments, can be found in the Town and Country Planning (**Environmental Impact Assessment**) Regulations 2011  
(<http://www.legislation.gov.uk/ukxi/2011/1824/schedule/1/made>).

These regulations are split into three schedules:

- **Schedule 1:** ‘*Descriptions of development for the purposes of the definition of “Schedule 1 development”.*’ These types of development will require an EIA.
  - **Schedule 2:** ‘*Descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”.*’ These types of development will only require an EIA if applicable thresholds and criteria are met.
  - **Schedule 3:** ‘*Selection criteria for screening Schedule 2 development.*’ This schedule sets out the criteria that should be considered by a local planning authority when carrying out an EIA screening exercise. It is useful for a community group to be aware of these criteria and, where relevant, consider these in their pre-application activities.
- The JNCC directory of **protected area designations** can be found at <http://jncc.defra.gov.uk/page-1527>. This should be used to determine whether your site falls in or near a protected area.
  - Examples of **Supplementary Planning Guidance** documents can be found below. Community groups should check whether their local planning authority has SPGs that are specifically related to renewable energy:
    - Joint Supplementary Planning Guidance: Enabling Sustainable Development in the Welsh National Parks ([http://www.eryri-npa.gov.uk/\\_data/assets/pdf\\_file/0010/491293/5896\\_SD\\_JointSPG\\_20140519\\_V2\\_0-Final.pdf](http://www.eryri-npa.gov.uk/_data/assets/pdf_file/0010/491293/5896_SD_JointSPG_20140519_V2_0-Final.pdf))
    - Pembrokeshire Coast National Park Supplementary Planning Guidance (<http://www.pembrokeshirecoast.org.uk/?PID=183>)
    - Cumbria Wind Energy Supplementary Planning Document (SPD) (<http://www.cumbria.gov.uk/planning-environment/renewable-energy/windEnergy.asp>)
  - Information on barriers that may be faced by local energy projects, including a section on obtaining planning consent can be found in the **Energy and Climate Change – Sixth Report** (specifically in section 4: ‘*Overcoming barriers to local energy projects – planning*’) ([www.publications.parliament.uk/pa/cm201314/cmselect/cmenergy/180/18007.htm](http://www.publications.parliament.uk/pa/cm201314/cmselect/cmenergy/180/18007.htm))
  - Information on what should be considered when installing renewable energy technology - **Generating Your Own Energy: A Planning Guide** - <http://gov.wales/topics/planning/policy/guidanceandleaflets/generaterenewable/?lang=en>

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