



Scotland Against Spin

The alliance for all opposed to National Wind Energy Policy

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SPP Review Team
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22nd July 2013

Dear Sirs,

SPP Consultation Response of 12th July 2013

I wish to make a further consultation response, under the same terms, to that lodged on 12th July 2013.

I refer to the Scotland Against Spin submission made in response to the first round of consultation in January of this year in which we said :-

Aarhus Convention

We would also like to draw attention to obligations on all UK planning authorities and Scottish Ministers, to comply with legislation laid down by the Aarhus Convention and this should be addressed through the revised SPP.

Essentially, the sole justification for these projects (wind turbines) is that they are reputed to reduce greenhouse gas emissions, deliver fossil fuel savings and beneficial impacts on future climate change characteristics.

However, no evidence of predicted precise targets or of actual effects (as opposed to assumed effects) is actually available in the documentation prepared at EU, UK and Scottish administrative levels. Documentation, where it is available, it is not transparent, as defined by the "Aarhus Convention: An Implementation Guide":

"Transparency means that the public can clearly follow the path of environmental information, understanding its origin, the criteria that govern its collection, holding and dissemination, and how it can be obtained".

As the relevant EU legislation directs, Member States have to ensure that information on the environment is up to date, accurate and comparable. There is a reason; access to transparent environmental information ensures that members of the public can understand what is happening in the environment around them. It also ensures that the public is able to participate in the decision making in an informed manner.

The European Union and the United Kingdom, with its devolved Scottish administration, are parties to the Aarhus Convention.

Under Article 5 of the Convention, both the EU and the UK as parties are required to ensure:

“Public authorities possess and update environmental information which is relevant to their functions”.

“Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible”.

Therefore, the actual emissions savings, fuel savings and climate change benefits, which would justify the approval of any wind turbines should be available.

Under Article 3 of Directive 85/337/EEC (as amended), the Competent Authority is required to complete its own environmental assessment of the project.

Under Environmental Information (Scotland) Regulations of 2004 public authorities must ensure environmental information is transparent and effectively assessable. In EU legislation (Directive 2003/4/EC) the words used are 'accurate, up to date and comparable'. If you look at the Scottish regulations, you will see the same wording in paragraphs 4 (1) and 5 (1) (4).2

In any event the detailed evidence for the precise actual benefits (as opposed to the assumed benefits factored into policy) should be included when balancing and assessing an application.

1. <http://www.unece.org/env/pp/introduction.html>

2. http://www.legislation.gov.uk/ssi/2004/520/pdfs/ssi_20040520_en.pdf

In the recent draft SPP consultation document there are references out to 103 documents of which 4 refer to European conventions or directives.

European Landscape Convention

EU Directive 79/409/EEC – The Conservation of Wild Birds

EU Habitats Directive – 92/43/EEC

EU revised Waste Framework Directive

Nowhere is there any mention of the Aarhus Convention. As we said above the European Union and the United Kingdom, with its devolved Scottish administration, are parties to the Aarhus Convention. We need to be confident that, where relevant, Scottish Planning Policy complies with the legal framework of European Directives and in particular the Aarhus Convention, which is important in environmental matters.

Under Article 3 of Directive 85/337/EEC (as amended), in order to justify the 'reasons and considerations' for the planning approval, the Competent Authority is required to complete its own environmental assessment of the project.

There has been a failure to transpose this requirement into Scottish law in "The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011". Therefore, planning permissions being granted under this legislation cannot be considered to be legally valid.

Unless this is acknowledged in the revised Scottish Planning Policy there may be grounds to challenge the competence of the SPP

This completes our supplementary submission to the Scottish Planning Policy Review (Draft)

Yours faithfully,

Graham Lang
Scotland Against Spin