



Intelligent Transport
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THE IMPACT OF “LOCALISM” ON RENEWABLE ENERGY SCHEMES

“Localism” - is described by the Government as a substantial and lasting shift in power away from central government and towards local people. Others describe the localism concept as a ‘nimby charter’.

The Localism Bill (“the Bill”), published in December 2010 and currently making its way through the various reading and committee stages in Parliament, offers rights and freedoms to communities to shape and influence the places in which they live.

The Bill will have and is already having a negative impact on renewable energy projects and therefore an impact upon renewable energy targets set by government. If the Bill remains in its current form, there would appear to be a real risk to the UK renewables industry.

The Bill introduces the concept of “neighbourhood planning” so that local communities are given the opportunity to influence the future of the places in which they live. Local authorities will bring into force “neighbourhood plans”, provided that they are approved by a majority. The plan does have to be in line with national planning policy and the strategic



vision for the wider area set by a local authority. A “neighbourhood development plan” will be a development plan policy document and will relate to a particular neighbourhood area identified in the plan.

The Bill also introduces the concept of ‘neighbourhood forums’. The forums are intended to help shape the planning regime in an area. The original plan that three people could constitute a ‘forum’ looks set to be increased, possibly to twenty. It is possible that ‘forums’ could target certain types of development. Whilst the intention is that they will shape the planning regime, the reality is that they could be used (as feared by many in the development industry) as a

tool for combating development that is unwelcome, from a purely personal perspective. Well informed, but not necessarily well intentioned, individuals could come together and set their own agenda for the types of development that they would like to see in their area. All of those involved in contested renewable energy schemes are well aware of the activities of various pressure groups and well organised and funded local action groups. The concept of “localism” will be used, and is already being used to frustrate and delay applications.

Under the Bill a “qualifying body”, which can be a neighbourhood forum, can initiate a



process requiring a local planning authority to make a “neighbourhood development order”, the order granting planning permission either for a specified development or for a development of any specified class. The process of making the order may include the holding of a referendum and, if more than half of those voting, vote in favour then the order must be made.

It is not unreasonable that local people should be involved in understanding how new development will affect their community including renewable energy schemes, provided that their motivation is fair minded. Will they actually be thinking about the benefits, particularly the long term benefits of a scheme, or will they just be thinking in a very parochial way about themselves?

The Bill does ensure that developers and local communities talk to each other much earlier in the development process, the idea being that the requirements of locals can be factored into development proposals. The planning process is now expecting more front loading, including increased consultation with local communities.

The Bill makes provision for local referendums on any local issue, which could involve a planning application. This will build further delay into a process which has already been made longer with more extensive consultation requirements. The scenario of a referendum on a windfarm application must send shudders down the spine of any windfarm developer in the UK.

Looking at the Bill from a positive perspective, developers will be forced to improve engagement with communities. It is, after all, an opportunity for developers to ensure that communities have an understanding, for example of the benefits of renewable energy, the benefits to the community and the wider economic benefits. A better understanding of renewable energy schemes, it would be hoped, will give rise to a higher approval rate.

Unfortunately the reality has been confirmed in recent authoritative survey's which indicate that as high as 86% of people object to development in their own area. This attitude has been borne out on many renewable energy schemes.



Wind farms, in particular, generate a lot of anxiety from the people who live in the locality of a proposed development. Windpower has an important contribution to make, particularly in relation to the low carbon agenda. However, the Bill is regarded by many as a blow to the promotion of renewable energy, particularly wind farms, by creating more problems than it is trying to solve. Ultimately, the result will be a further slowing down of projects by creating another layer in the consent process.

Renewable UK, the renewable energy trade association, state that they are “already working on a set of proposals to ensure that people at the local level see a clear benefit from hosting renewable energy projects” and “are looking forward to working with the Government to ensure that renewable energy projects are developed in a responsible, democratic and clearly beneficial way.”

The renewables industry has moved to ensure that local communities receive more direct and tangible financial benefits from hosting a renewable energy project. An example of this is the Renewable UK Community Benefit Prorotol launched in February 2011.

This new approach is reflected in recent wind and solar energy farm schemes, on which Martineau have advised, which have included specific financial contributions by way of planning obligations by operator’s to assist local energy schemes.



The Bill also confirms some specific mechanisms for implementing the new ‘Community Infrastructure Levy’ (“the Levy”) and will allow some receipts from the Levy to be transferred directly to ‘neighbourhoods’. This may be a mechanism which indirectly provides an incentive to local communities to buy into renewable energy schemes.

Unfortunately, to date, very few Council’s have introduced “the Levy” and a large number have specifically confirmed that they will resist its implementation.

The Bill does provide for a ‘duty to co-operate in relation to planning of sustainable development’, for example in the consideration of infrastructure and renewable energy schemes. The duty is introduced to ameliorate the effect of the outgoing Regional Spatial Strategies (RSS’s). The duty seeks to ensure that local authorities and other public bodies engage in a continual process of “active engagement to maximise the effectiveness of working on strategic planning issues”. Local authorities are considered to be “best placed to plan for



sustainable development that meets the aspirations of local communities". This new emphasis on sustainable development is welcomed, however, the track record of many Councils, in approving renewable energy schemes is a poor one, even when local and national planning policies would support approval. Unfortunately, very often, local political pressure forces a developer to take a scheme to an appeal.

At the time of writing the Government is making some amendments to the Bill. It is going to open up membership of 'neighbourhood forums' to the business community and there will be specific encouragement for the Government's New Homes Bonus.

It should be noted that the Independent Committee on Climate Change has recently indicated that, as a result of the current delays in the planning system and the Bill, that there is a clear case for a new planning regime for wind farms. Certainly the Government does need to impose some form of pressure on Councils to approve such schemes. Dealing with climate change demands that we all make some sacrifices. Therefore people must accept some level of impact on their lives.

In conclusion it must be questioned whether the Government in the Bill is expecting too much from local communities and does it put too much faith in them? How will the Bill and the new powers at local level effect the apparently ingrained resistance of the British

public to new development in its area? In our view the prospects or omens do not augur well for the renewable industry at this time.

This Bulletin is intended to be a general guide to the law. It is no substitute for taking advice before reaching a decision on your individual problems.

Key contact:

For further information about issues raised in this bulletin, please contact:

Iain Johnston
Partner & Head of Planning
T: 0800 763 1231
E: iain.johnston@martineau-uk.com



iPRT Group

Intelligent Transport Planning Solutions

Tel 0845 47 48 851

Fax 0871 900 7432

Email info@iprtgroup.com

Web www.iprtgroup.com

Offices Newcastle upon Tyne, Leeds, Manchester,
Birmingham, London, Edinburgh