A plan to succeed

Securing the green light for a wind farm is one of the biggest challenges any developer will face. So how can developers give themselves the best chance?

ATTEND ANY wind conference, in the majority of countries around the world, and you are sure to find concerns with the planning regime near the top of the agenda. And as well as complying with local regulatory requirements, which may vary depending on project size or location, getting the public onside is becoming ever more critical.

The planning and consent process for wind project development is often seen as the most difficult stage in any project’s lifespan. If there’s one thing guaranteed to stir up controversy and divide community opinion in any country, a plan to install wind turbines seems to be it.

This has major implications for any prospective developer, and is one of the key reasons that rigorous and sensitive site selection in the feasibility stages is vital - as the first article in this Renewable Energy Focus series made clear (see Nov/Dec 2010, pages 12-17).

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Be prepared for opposition

Securing planning permission for most wind projects is an uphill struggle, but without the local community on side it can become a lengthy and costly battle. But it has to be done: “After a good windy site, the most important ingredient for a successful wind farm is planning consent,” according to British association RenewableUK.

While consultation with the local community often starts once a planning consent application has been filed, it should ideally kick off from the outset of a project. As should communication with local planning authorities, to ensure any specific concerns are addressed early. Public and local authority consultation should then ramp up significantly once the project passes the pre-feasibility and feasibility stages, and enters the crucial development and planning stages.

While public consultation is just one aspect in the process of securing consents for project builds, it is a make-or-break thread that runs throughout. For this reason, the key benefits of a planned wind project need to be communicated clearly. At the same time, valid concerns raised by local people need to be accommodated within development plans.

Proponents of wind farms should “actively seek stakeholder participation and support through well-planned, open, inclusive and responsive engagement processes that respect local knowledge and concerns,” emphasises the guidelines produced by Auswind (now the Clean Energy Council) for its accreditation scheme, Certified Wind Farms Australia (CWFA): “Public involvement will only lead to positive outcomes if members of the public have confidence that their involvement is meaningful,” agrees Dr. Mhairi Aitken, author of Wind Power Planning and Public Engagement: Challenges and Opportunities, a briefing report published by the Institute for the Study of Science Technology and Innovation in May 2010. “If they do not feel that their views are being given due consideration, or that they have the capacity to influence decisions, they may be unlikely to participate. Developers therefore need to [...] grant a degree of power to members of the local community.”

Know the battleground

It is also essential to conduct detailed environmental impact assessments (EIA) with the right local experts. Submission of an EIA has now become standard practice as part of planning laws in most countries (see additional online article component). Applications for project development or construction consent are submitted to the relevant authorities once a detailed assessment/feasibility study has been conducted.

This means detailed technical and environmental assessments will have been made for the site, along with the electrical grid extension works required.

All being well, by this stage in the process, the project developer will have a preferred wind farm layout; have achieved an ongoing dialogue with the local community and other key stakeholders; and have undertaken detailed

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assessments of issues identified by the planning authority and their advisors. These assessments probably include:

- Landscape and visual assessment;
- Noise assessment;
- Shadow flicker assessment;
- Flora and fauna assessment;
- Socio-economic assessment;
- Archaeological and cultural heritage assessment;
- Transport impact assessment;
- Environmental Management Plan, including decommissioning;
- Fire Hazard Management Plan;
- Aircraft safety assessment;
- Emergency and Incident Management Plan.

**Size does matter**

A thorough understanding of local planning laws is essential if a project is to have a strong chance of success. Each country has its own rules, and developers and the responses to the public consultation,” explains RenewablesUK. “They will then make a recommendation to the planning committee, which is composed of local councillors who make the final decision.”

Australia’s CWFAs best practice guidelines, however, stress that, “often councils will have a stated responsibility to encourage appropriate social and economic growth within their jurisdiction, and therefore should be consulted regardless of the approval process or responsible authority.” Local councils may also refer a project planning application to State planning, environmental protection, natural resources or infrastructure departments during the development application process, it adds.

The degree of State Government involvement will vary considerably from region to region, and may depend on the scale of the project. This is true of most countries, whether operating a federal system of Government or not.

In many countries, project ownership rules and planning procedures for privately owned projects under 50 MW differ greatly to larger projects.

These often differ depending on the planned size of a project. In many countries, project ownership rules and planning procedures for privately-owned projects under 50 MW differ greatly to larger projects.

As a rule of thumb, smaller-scale projects generally require planning approval from the local town, district or municipal council/authority (although sometimes the State, County or Provincial Authority above them will also have a say). They base their assessments in line with the town or district land use/zoning plan, and any relevant local and State policies and strategies.

In the UK for example, “in most cases, planning applications will firstly be considered by local planning authority officers, who will check that proposed wind farm developments are in line with national, regional and local planning policies, before considering the Environmental Statement from the Environmental Protection and Biodiversity Conservation Act for example, world heritage listed properties; internationally important wetlands; nationally threatened plant and animal species; listed migratory species; Federal marine areas; and nuclear matters come under this category - as they do in most countries.

**Case study: moving the goalposts, UK and Scotland**

In many countries, planning rules for renewable energy projects are still evolving. This is driven largely by the needs of Governments to increase their sustainable and low carbon energy generation output, but also by demands for local accountability. And this is the case even in countries that have a long history of building wind farms.

The UK is one of the pioneers of wind turbine development, and has one of the best wind resources in the world. Yet planning has long been described as the biggest obstacle that prevents the country’s full offshore wind power potential being exploited.

While the UK is now leading the pack in its pursuit of offshore wind development, at the end of 2010 the introduction of one of the most radical overhauls of local planning rules in the last 60 years is set to be yet another major “game changer for the [UK] renewable energy sector”, according to RenewablesUK.

At the end of 2010, there were nearly 270 wind farms totalling over 7 GW in planning (onshore) in the UK. The country’s Conservative party-led coalition Government introduced the Localism Bill in December 2010, and this could affect whether many planned projects proceed any further or not.

Many of the proposals under the draft legislation for new planning laws could have a profound impact on...
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renewable energy projects, while others could have a bearing on project economies and overall renewable energy targets.

RenewableUK has identified proposals on local referendums; predetermination; neighbourhood planning; pre-application consultations; abolition of regional spatial strategies and the community infrastructure levy as being of particular importance:

“We could be looking at a radically different planning process, with councillors allowed or even encouraged to campaign ahead of the decision, and the result in some cases being made by referendum,” says Charles Anglin, RenewableUK’s director of communications. “We will need to consult with communities ahead of logging an application, and make sure that the economic and community benefits are clear.”

Also, in Scotland, a vast potential wind resource continues to be held back by planning. “Time is money for any developer,” explains Karen Hamilton, partner in planning law at Brodies solicitors. Research undertaken by the planning team at the organisation indicates that planning decisions for onshore windfarms in Scotland are still taking too long.

With the exception of “domestic” scale schemes of three turbines or less, the problem is relevant for projects of all sizes. For example, the average decision-making time for so-called Section 36 applications (projects over 50MW) determined by Scottish Ministers in 2010 was 57 months, from submission of the application – with one recently-approved Dunmaglass scheme consented some 70 months after submission. And smaller projects have had similar problems.

Planning applications determined by local planning authorities fared better, with an average decision time of 22 months, but where that decision was challenged at appeal, the overall timeframe rose to 40 months.

The full effect of a planning reform implemented in August 2009 has yet to be experienced, given that the majority of commercial scale wind farm applications lodged since that date remain undetermined. Some improvement is therefore to be expected over the next year or so, believes Hamilton, but the use of a delegated decision-making process aimed at increasing efficiency for local scale developments (under 20MW) and amenity aspects of wind farms. The aim of the scheme, says the CEC, is to promote the sensitive and responsible uptake of wind energy in Australia by ensuring that the development and operation of wind farm projects is consistent with best practice standards.

Updated in 2006, CWFA provides participating organisations with access to a suite of environmental and stakeholder management resources that will be continually improved throughout the life of the scheme. These resources are based on ISO14001, the internationally-recognised framework for environmental management, but are specific to wind energy developments. Participants will be audited, allowing an independent assessment of their wind farm planning processes or operations against best practice, as defined by the CWFA specification and Clean Energy Council Best Practice Guidelines.

Adopt best practice advice for better chances of success

Many national wind energy associations have detailed best practice guidelines for the development of wind farms, including their visual impact. In Australia, for example, the guidelines produced by Auswind (now the Clean Energy Council) cover construction, operation and decommissioning, including safety, noise, birds and community involvement.

In Italy, the Italian Wind Energy Association has developed guidelines together with the main environmental associations - WWF, Legambiente and Greenpeace. Certified Wind Farms Australia (CWFA) is described as the world’s first wind farm accreditation scheme. Developed in 2002 (again by the then Auswind and key industry stakeholders) in response to the need for sound environmental and social management in the wind energy industry, it includes an auditable framework for managing environmental, stakeholder consultation,
Many national wind energy associations have detailed best practice guidelines for the development of wind farms.

planning authority’s own local review body. Developers may try to avoid this outcome wherever possible.

Decision-making timescales are not the only concern. Section 36 activity remains low compared with previous years, with the trend continuing toward extensions of existing schemes, instead of new schemes. Inevitably this too will impact on the rate of progress towards targets.

So this is an example of planning getting in the way of targets: “If the Scottish Government’s ambitions are to be realised, environmental and economic, then onshore wind developments must continue to play their part, and the consents system must allow them to do so,” she says.

And there are sure to be similar examples from around the world.

Worst case scenario
So what happens if a planning consent application is rejected? Walk away, revise the project proposal and try again, or contest the decision with the relevant appeal body?

“The developer may take their case to the relevant appeal body, which has the power to overrule the original decision if it considers that it was a significant departure from national, regional or local planning policy, or did not fairly assess the balance of national or local environmental, social or economic considerations,” says RenewableUK.

“A developer is also entitled to go to appeal following non-determination after the statutory period of 8 weeks - or 16 weeks for applications where an EIA has been carried out.” The appeal body may request written or informal representation, or it may decide to open a public inquiry, it adds: “The latter option is often taken for more controversial or complicated wind farm proposals.”

And finally, it is important to remember that local rules may differ vastly from one country to another.

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The next article in this series will look at critical due diligence issues involved in wind project development and securing project finance.