

Community Renewables Toolkit

Planning Module

Toolkit structure

The Community Renewables 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 Community Renewables 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 as follows.

- Establishing a community group
- Project finance
- Securing the site
- Planning
- 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 England.

The planning system

An overview of planning within a renewable energy project.

The role of local planning authorities

An introduction to planning authorities and what the planning authorities are responsible for.

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 Department for Communities and Local Government has published a plain English guide to the planning system in England, which provides a good starting point for those unfamiliar with the system. If you want more information on this, it can be found in Further Information.

The planning system is there to address the legal requirement 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 that do not.

The English planning system is designed to be applied by local government and communities. Many parts of England have three tiers of local government:

- County councils – responsible for county level planning matters, such as transport and minerals and waste planning.
- District, borough or city councils – responsible for most planning matters. Local planning authorities administer the planning system, and are responsible for preparing Local Plans, determining planning applications and carrying out enforcement against unauthorised development.
- Parish or town councils – role in commenting on planning applications that affect their area. Also have the ability to produce neighbourhood plans.

In some areas of the country single tier authorities (such as London Boroughs, Unitary authorities and National Park Authorities) have responsibility for both district level and county level planning matters.

The National Planning Policy Framework, published in March 2012, provides a balanced set of national planning policies for England covering the economic, social and environmental aspects of development. The policies in it must be taken into account in preparing Local Plans and neighbourhood plans. It provides a framework for producing distinctive Local and neighbourhood plans and development orders that meet local needs.

There is a separate planning policy framework and legislation for nationally significant infrastructure projects, such as power stations, major transport schemes and, generally, the construction of overhead lines above 132kV. Renewable and low carbon development over 50 megawatts capacity are considered as nationally significant infrastructure projects. Under the Planning Act 2008, the Planning Inspectorate is responsible for the administration of applications for nationally significant infrastructure projects on behalf of the Secretary of State. Further information can be found on for nationally significant infrastructure projects can be accessed via the Planning Portal.

Most community-scale developments are expected to fall into the local development category and therefore to local planning authorities, as per the Town and Country Planning Act 1990. It is important for community groups identify their local planning authority and establish a dialogue with them as early as possible in the project development. Further information on local planning authorities, their role and establishing contact is provided later in this module. The next sections look at elements of the planning system that relate specifically to renewable energy.

The planning system and renewable energy

There are specific planning considerations that should be taken into account when developing a renewable energy project. Local authorities develop Local Plans using policies in the National Planning Policy Framework as guidance. This National Planning Policy Framework is supported by planning practice guidance documents, one of which relates to renewable and low carbon energy (last updated in April 2014).

This guidance was developed to assist local councils in developing policies for renewable energy in their local plans. However, it also identifies the planning considerations for a range of renewable sources such as hydropower, active solar technology (solar photovoltaics and solar water heating), solar farms and wind turbines. Any community group interested in developing a renewable energy project should familiarise themselves with the planning considerations for the technology under consideration, as these will be areas that are considered by the local planning authority in determining any planning application.

Permitted development

Some renewable energy projects are permitted without planning permission. This is called permitted development. Permitted development rights apply for solar panels, ground and water source heat pumps, and flues forming part of biomass and combined heat and power systems installed on non-domestic premises (see further Information). There are, however, important limits and conditions which must be met to benefit from these permitted development rights which should be discussed with your local authority. The rules on permitted development are subject to change, so it is important to always consult with your local authority.

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 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 would fall under permitted development they should consult as early as possible with their local planning officer to ensure the development will fall under permitted development rights.

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

The role of local planning authorities

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

Adopted Local 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.

Local planning authorities should also clearly set out any strategic policies that those producing neighbourhood plans or Orders¹ will need to consider when developing proposals that address renewable energy development. Neighbourhood plans provide an opportunity for communities to plan for community led renewable energy developments. To support community based initiatives a local planning authority should also share relevant evidence that may assist those producing a neighbourhood plan or Order, as part of their duty to advise or assist. As part of a neighbourhood plan, communities can also look at developing a community energy plan to underpin the neighbourhood plan.

In some cases, local planning authorities will also produce supplementary planning documents (SPDs) 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 local guidance is followed. If it is not, it is highly likely that a planning application will be harder and more costly to obtain and may even 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 officer 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 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 planning applications of these can help to identify specific considerations

¹ Neighbourhood Development Orders and Community Right to Build Orders can be used to grant planning permission for renewable energy development.

that will need to be taken into account and any reasons for refusal of planning permission, so that they can be taken account of during preparation of the planning application.

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

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

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

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

- The address (or 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 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 be begun as early as possible in the development process. Initial consultation is best carried out from project conception. However, it is important to continue engagement throughout all stages of 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 engagement of the local community will reduce the likelihood of a planning application being rejected. It is recommended that, at the least, neighbours are notified. An example neighbour notification letter is provided in Appendix 1. This should be sent to all residents and businesses within a 1km radius of the project development.

If you have a planning consultant, they can provide you with further information on community engagement in the planning process

Step 4: Carry out a feasibility study.

It is advisable for the community group to carry out a feasibility study to determine the viability of the development and appropriate scale. Such a study can be used to help support the planning

application and provide initial information for development of a business case. A feasibility study would typically include the following elements:

- An overview of the technology or technologies under consideration.
- An assessment of the technical feasibility of each technology options, including potential advantages, disadvantages, opportunities and constraints.
- An assessment of the energy generation potential and potential CO₂ savings over the lifetime of the project.
- A financial assessment of the technology options, including estimated costs and expected income streams. An initial business case could be developed that would provide initial estimates of return on investment.
- Recommendations for the most suitable development options and next steps for development.

Step 5: Collate information required for 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 Impact Assessment (EIA) or the impact of the development on the landscape and any cumulative landscape and visual impacts.

Environmental Impact Assessment (EIA) is the process by which information about the likely significant environmental effects of a project are gathered and reported. The EIA also identifies the potential for reducing, avoiding or offsetting any adverse impacts. This information is collected and assessed by the developer. It must be taken into account by the planning authority together with comments received from the consultation authorities and the public before any planning decisions are made. The local planning authority will complete an EIA screening exercise, which will take account specific selection criteria, such as the characteristics and location of the development and characteristics of the potential impact in order to determine whether a full EIA is required for the development. If the community group is unsure if their development requires an EIA, they can request that the local planning authority to 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 the landscape and any cumulative landscape and visual impacts of any 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. 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.

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 6: 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 planning guidance on making an application.
2. **Notification and consultation with community and statutory consultees.** Statutory consultation required for not less than 21 days. Specific publicity requirements 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 minor applications and 13 weeks for major applications.
4. **Decision.** Planning officers usually decide smaller developments under delegated decision-taking powers. Larger and more controversial developments are decided by planning committee.
5. **Option to appeal decision.** An applicant has a right to appeal to the Secretary of State, 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. Planning appeals can also be 'recovered' by the Secretary of State.

Consultancy support

Even with the guidance that has been developed to make the process of preparing and making a planning application, it can still be a major undertaking. The complexity of the process can also be linked to technology, with large wind projects 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 relative to having to deal with a planning rejection.

It is important to note that the cost of obtaining planning permission can be high. In an energy and climate change report, the wind industry has 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, 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 highlights your awareness of the steps you need to complete, which will 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
- For a detailed understanding of the planning system in England, the **plain English guide to the Planning System** provides an overview of how the planning system in England works. This is a useful guide and a good starting point for those unfamiliar with the planning system.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/391694/Plain_English_guide_to_the_planning_system.pdf.
- There are a number of national **Planning practice guidance documents** (<http://planningguidance.planningportal.gov.uk>) that are relevant to submitting a planning application for a renewable energy development. Before submitting an application, community groups should familiarise themselves with relevant information in the following:
 - Environmental Impact Assessment planning practice guidance document (<http://planningguidance.planningportal.gov.uk/blog/guidance/environmental-impact-assessment>)
 - Making a planning application (<http://planningguidance.planningportal.gov.uk/blog/guidance/making-an-application>)
 - Renewable and low carbon energy planning practice guidance document (<http://planningguidance.planningportal.gov.uk/blog/guidance/renewable-and-low-carbon-energy>)
- For those interested in the overarching national planning policies for England, further information on the **National Planning Policy Framework** can be found at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
- The **Planning Act 2008** sets out details for the administration of applications for nationally significant infrastructure projects, which 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>).
- The **Town and Country Planning Act 1990** (<http://www.legislation.gov.uk/ukpga/1990/8/contents>) sets out the role of local planning authorities, as well as detail on Local Plans. Most community-scale developments are

expected to fall into the local development category and therefore to local planning authorities and will be subject to policies in the local plan.

- **Permitted development rights** are covered in the Town and Country Planning (Compensation) (England) Regulations 2012 (http://www.legislation.gov.uk/uksi/2012/749/pdfs/uksi_20120749_en.pdf) and Statutory Instrument 2012 No. 748, part 43 deals specifically with the installation of non-domestic microgeneration equipment (see http://www.legislation.gov.uk/uksi/2012/748/pdfs/uksi_20120748_en.pdf). This is useful for community groups to review if they wish to determine whether a project may be considered as permitted development.
- 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/uksi/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 Documents** can be found below. Community groups should check whether their local planning authority has SPDs that are specifically related to renewable energy:
 - Cornwall Council Renewable Energy Supplementary Planning Document (<http://www.cornwall.gov.uk/renewablespd>)
 - 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)

Appendix 1: Example of an early wind project neighbourhood information letter

This should be sent to properties within 1km of the turbine.

Date

Rural business/Community Group name
address

Correspondent name
Correspondent address

Dear Sir or Madam

Early notification regarding our intention to develop X wind turbine(s) on land at XXX.

We are writing to make you aware that we are starting the process to develop a wind turbine at the above location.

As a neighbour, I am writing to you and other neighbours within 1km of the turbine to make you aware of our plans. This will be a locally owned renewable project which will *(delete as appropriate)* be fully community owned investing profits back into local community projects *or* contribute a proportion of the income (at least £Xk/MW installed) to support local community causes.

If feasible, we intend to submit a planning application at which point there will be full details of the project and an opportunity for you to engage in the planning process.

I look forward to hearing from you as our project progresses.

Yours faithfully,

[Signoff]

Commissioned by the Energy Saving Trust

This document was last updated July 2015