

VoS Brief

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John Hodgson, chair of *The Skye Windfarm Action Group* (SWAG), spoke at the Royal Town Planning Institute's *Planning for Renewable Energy* conference in Glasgow on September 25, 2003.

His speech, which was well-received, will strike a chord with those affected by the wind power explosion across Scotland as well as those concerned at inequalities in the planning system. We thank SWAG for giving permission to reproduce it.

Wind Power and the Planning System

Introduction

WE'VE HEARD FROM the professionals and experts and now I'd like to thank you for the opportunity to relate what it's really like for a community to be on the receiving end.

SWAG is a community group that goes out of its way to research planning issues, so we try to be well informed – but please excuse us if we err on the detail – we are still just members of the public! Because we're a wind action group, what I say is focused on the issues surrounding wind farms rather than other renewable sources.

SWAG opposes big business power station developments that divorce generation from load and disproportionately concentrate environmental damage on small communities. We advocate energy conservation and genuine community renewables solutions — local power for local people.

I say the situation is confusing because for proposals of less than 50MW we have a more-or-less 'local' decision under the Town and Country Planning Act but for greater than 50MW we have a central government decision under the Electricity Act. While there may have once been 'good' historical reasons for this dichotomy, it is unnecessarily confusing to the public and it burdens people with two sets of procedures where one is already more than complex enough.

I say the situation is undemocratic because, in the case of a Section 36 decision, the Minister is not directly accountable to the local electorate and, although in the case of a local decision democratic accountability may be a little better, in our experience in Highland, 'local' can mean a decision by councillors elected in wards up to 150 miles from our community.

Synopsis

- **The Executive has embarked on the biggest shake-up of electricity production that Scotland has ever seen.**
- **It has done so in the absence of any strategic plan, relying instead on 'market forces' to decide the location and nature of development.**
- **This has brought the power industry into head-on conflict with local communities across Scotland and now an overstretched and fundamentally undemocratic hybrid planning/Electricity Act system is expected to resolve this complex raft of issues.**

Moreover, even if the democratic deficit presented by Section 36 were satisfactorily resolved, the planning system would remain fundamentally undemocratic since it affords developers an automatic right of appeal and yet denies the same right to the public.

That there is no strategy is, quite simply, obvious to all. Indeed, the Executive has made no secret that it regards a strategy as unnecessary: it asserts that all impacts are strictly local and that a strategy would interfere with commercial competition in the choice of site location. If the reason that wind farms over 50MW are decided by

central government is to provide strategic guidance, then the lack of any renewables strategy is indefensible.

Now we see this already flawed system being stretched to breaking point by the biggest shake-up of electricity generation that Scotland has ever known: 18 per cent renewables by 2010 and 40 per cent renewables by 2020. The short timescale and

The Wind Rush

First I'll summarise the big picture as we see it. There are three main features of the planning system that strike the end user attempting to grapple with a power station proposal:

- Confusion
- A lack of democracy and
- Lack of strategic planning

the quantity and complexity of EIA applications combine to make an unprecedented situation. Planning department and environmental safeguard resources are over-stretched. And if this scenario was not risky enough already, SNH is to be concurrently hobbled by the dislocation of the move to Inverness.

These then are the facts and each of us must judge the odds of a happy outcome for ourselves. SWAG's opinion is that this scenario is environmentally reckless.

Opportunities – how it should be

Before I go on to look at the detailed challenges we have been presented with, I'd just like to say: it doesn't have to be like this. Just look at some of the missed opportunities here:

Because the wind rush is ostensibly motivated by environmental concerns, it seems to us that the biggest opportunity here would be to embrace the principles of sustainable development. As it stands, this wind rush can hardly be described as sustainable since it fails on a number of the acid tests laid down at Rio.

From an environmental point of view, the problem is simply this: how do we reduce greenhouse gas pollution? We believe that a Strategic Environmental Assessment (SEA) could be applied to great advantage here. Indeed, if the offshore wind program merits strategic environmental assessment, then why not onshore in Scotland?

To declare that such an assessment is unnecessary because all of the environmental effects are local when these developments are specifically intended to solve a perceived global warming problem is, quite simply, ridiculous. Moreover, very real and serious issues, such as cumulative impacts on communities, habitats and species and non-local technical issues such as transmission losses in the grid all deserve our full and proper attention.

If all the options were examined, including energy conservation and local community power, and all these alternatives were put to the public, a consensus could be built for a truly sustainable program for reducing greenhouse gases. A cost-benefit analysis and carbon audit of each alternative would be most informative.

If we are serious about sustainable development, money shouldn't be the only criterion driving policy – we must put local communities and the environment at centre stage. Give us the facts in a Strategic Environmental Assessment and let each community decide for itself how it can contribute to the solution.

Planners have the opportunity to take local people seriously. Dismissing local people's concerns over development as NIMBY, as many developers and their advocates do, is hardly conducive to building consensus in the community. Nor does it accord with Rio's call for communities to be given the central role in environmental protection because of their local knowledge. There's a change of attitude required here genuinely to engage with local people and community groups. Listen to them to your advantage – local people know better than anyone what is happening on the ground and, if a development isn't consensual, then it isn't sustainable.

If a damaging development is considered to be unavoidable, then consider mediation. An independent mediator, involving the whole community from the very earliest stage, could avoid or relieve some of the very debilitating effects of community division.

Challenges – how it was for us

Having looked at what we would like to see, I'll give a brief tour of what we actually get. I've tried to organise this into the broad challenges that we have encountered or observed in our interaction with the planning system. However, before I do that, I'll just briefly summarise the context of the wind farm applications in Skye.

Summary of the Skye Situation

There are currently two applications in planning, at Edinbane and Ben Aketil, and a number of other proposals in preparation. Ben Aketil is on MacLeod Estate land with sitting crofting tenants and at Edinbane the landowners are Edinbane Estate and the Scottish Executive, again with sitting crofting tenants. The planning issues have focused on community division, noise, visual impact, landscape impact, tourism, eagles and peat bog.

The debate has been lively with some members of the community stressing the benefits of wind farms and others the risk to environment and the tourism sector. Consultation outwith the statutory provisions of the planning system has been restricted to a couple of promotional days by the developers.

Within the community, the most vigorous debate has centred on economic issues. Supporters of the proposal argue that financial benefits will give a boost to the depressed agricultural sector, consisting principally of sheep husbandry, whilst opponents are concerned that the development will undermine the tourism sector, which consists largely of small enterprises trading on Skye's scenic beauty, wildlife and walking.

Ben Aketil is currently awaiting determination, whilst for Edinbane the Council has resolved to approve the application subject to conditions including the conclusion of a Section 75 agreement.

Community Division

At the heart of the matter are the different land use interests that typically come into conflict in these applications. In rural communities these may be broadly characterised as follows:

- A traditional landowning and crofting/agricultural land use interest
- A more recent lifestyle-choice/commuter /recreation/tourism land use interest
- And the new big business/big government power station land use interest

Note that in any given application, a developer usually makes its approach to just one of the existing land use interest groups in a community, i.e. to the traditional landowning or crofting/agriculture interest group since it is they that exercise direct ownership or control over the land in question.

Despite romantic notions to the contrary, modern rural communities are not homogenous. In reality they are, like the rest of the nation, a melting pot of individuals with different social, cultural and economic identities. Although rural communities are not immune from the challenges that such differences may sometimes engender, by and large any tensions that do exist are latent and people generally have respect for each other. To make an approach to one interest group to the exclusion of others creates 'winners and losers' and obviously carries a significant risk of dividing the community.

If that does happen, then the fracture will often occur along lines of hitherto latent tension. In such circumstances, issues of land use and environmental protection can both provoke, and become a cipher for, arguments that are in reality about social, cultural and economic identity rather than about the planning issues *per se*.

I should emphasise here that in our experience such conflicts are by no means the prerogative of any one group in the community and they are certainly not representative of the majority. However, it is obvious that the sustainability of rural communities depends on the well-being of the community as a whole and we see community division as the most damaging consequence of these developments.

As food for thought, I'd like you to consider this comment from locals in Wales, taken from the ETSU report, *Qualitative Public Attitudes Research in Mid-Wales*:

The biggest thing is the breakdown in the community ...

Mmm ... it's sad that

Yes, next door neighbour's family, they split and the children split then and then people get – you know – you don't go and talk to someone in the street.

It is important that planners should be aware of this most important but sensitive issue of community division since, if it does arise in an application, it is planners who are expected to resolve it using the machinery of the Town and Country Planning Act or the Electricity Act. If you don't, communities may be picking up the pieces for a long time to come.



A computer-generated impression of how Edinbane will look after the turbines are constructed

Access to Information

Turning now to the issue of access to information, we experienced severe difficulties in this respect.

There is a widespread perception that the government and developers are simply just not serious in their commitment to providing information to the public. The general impression is one of developers stonewalling and of unnecessary government secrecy. For example, the policy of some Councils and the Energy Division of denying public access to third-party representations and consultation responses until three days before determination does nothing to facilitate public participation or transparency.

The independence of information is a further concern. Government, developers and windfarm protest groups are clearly not impartial and there is a growing public appetite for a truly independent source of information. Access to up-to-date information is also a problem and there is an impression that public information lags too far behind advances in power generation technology – for example we note that the ETSU noise methodology was intended to be updated four years ago and is now out of date.

Finally, if and when useful information is obtained, it is frequently of a highly technical nature and lay members of the public often find it intimidating and exclusive.

Again, consider this comment from Wales:

If you take this, for example, this ‘non-technical’ thing, I doubt whether Mrs Jones down the road or Mr Davis up the mountain is going to understand this. This document is full of jargon.

And that’s just the developer’s non-technical summary! The message here is: if you really want the public to participate, then give us impartial information in a form that we can understand.

Pseudo-consultation

After our experiences, we have been left with the impression that the public is not accorded the same respect as consultees, developers, or other ‘experts’. By way of example, one representation from the public on an issue apparently regarded by the Council as the domain of SEPA [Scottish Environmental Protection Agency] was only taken seriously after SWAG independently copied and highlighted the representation to SEPA, who then raised the issue directly with the Council.

In a similar vein, we consider that reports by consultant experts engaged by SWAG have not been accorded equal weight with those submitted by

consultants engaged by developers. We perceive a ‘you would say that wouldn’t you’ attitude when the Council deals with objectors, rather than a genuine willingness to listen and engage with the community.

This impression is reinforced by the fact that a record number of objections (for Skye) was lodged for the Edinbane wind farm and yet the application was approved as submitted despite the planning officer recommending a reduction in the number of turbines of 25 per cent. It is difficult not to wonder: are representations from the public really worth anything?

By consulting with the public at ‘ten minutes to midnight’ so to speak – when there is little realistic prospect of modifying a proposal – then it is most likely that an application is either approved without substantive changes or else it is rejected. Once again, there is the perception that the planning system presents the public with a *fait accompli* rather than engaging with us as partners.

Partiality

The wind industry is being promoted by central government which also dictates planning policy and advice. The planning system is administered by local government or, in the case of Section 36 applications, by central government itself. This leads to a public perception of partiality.

This situation is unprecedented. By giving effect to its energy policy indirectly through Renewables Obligation (Scotland) (ROS) subsidy, there is an impression that the Executive is hiding behind private developers and denying the public those checks and rights to compensation that are normally provided for when development is by a planning authority.

There is a perceived cherry picking of guidelines to suit the case in favour of development and a perceived injustice in the operation of the system – for example, in Skye a member of the public was refused permission for a small domestic turbine on visual impact grounds and yet a commercial developer’s 27 gigantic turbines were judged to be acceptable.

This perceived lack of impartiality also leads to a breakdown of trust in government-sponsored research, such as the Executive’s ‘Public Attitudes to Wind Farms’. The first study was withdrawn because only eight people lived within the 5km zone where hundreds of interviews were allegedly conducted. And now the new study arrives at the same conclusions. If the same thing is found regardless of where the windfarm is in relation to people’s houses, then the question is reasonably

asked: 'Does this exercise have more to do with justifying policy than informing it?'

Selling Planning Permission

There is a growing consensus that big business is exploiting vulnerable communities. For example, John Rennilson, Director of Planning at Highland Council has said:

The renewables industry is as close to a risk-free investment as you can get. There should be a sharing of the benefit, because there is a considerable level of profitability and the communities hosting these wind farms are not getting a share.

An attempt is being made to redress this imbalance through the negotiation of community compensation funds and the Highland Council is now campaigning for an increase from the current £1,000 per installed MW to £5,000-£10,000 per MW although there is obviously a risk that this campaign will drive developers down the Section 36 route.

Councils are at pains to point out that officers and councillors that are not directly involved in the processing or granting of planning permission conduct such negotiations. Nonetheless, it is very difficult for Joe Public to understand how this situation is any different from selling planning permission. While there exists the possibility that a healthy benefit fund could influence the outcome of an application, there will be a clear conflict of interest with the public's democratic rights of representation.

There is no doubt that if there are to be windfarms, then the community as a whole should benefit. However, we would not regard selling local peoples' rights of objection to the highest bidder as an acceptable solution. We would urge that planners and policy makers resist the lure of 'offsite planning gain' and rather seek a sustainable solution that both benefits the community and respects the democratic rights of local people, such as community renewables.

Democratic Deficit

One of the issues most keenly felt is the democratic deficit in the hybrid Electricity Act/planning system. Section 36 decisions that are taken remotely by Ministers who also decide policy are quite simply inconsistent with the principle of local democracy. In Highland, the Planning, Development, Europe and Tourism committee of the Council, which comprises some 30 members, takes ostensibly local decisions and yet only one of these members is directly accountable in an affected ward.

Perhaps the greatest injustice of all here is the

denial of any third-party right of appeal on planning grounds. Local people see developers enjoying the right of appeal and yet they are denied the same fair hearing of their own planning case. The only avenue left open to an aggrieved party is Judicial Review.

Concluding Comment

Wind farm objectors are reasonable people. We seek to engage in the planning process and we ask for fair hearing of our opinions. If we saw sustainable development and fair hearing, we would accept the outcome and we would have no complaint.

There are opportunities: opportunities to listen to and engage in a partnership with local people and to work out a sustainable solution to the benefit of all.

However, what we currently perceive is bad policy – a policy with no strategy – and a flawed planning system under intense pressure. That makes for bad planning. When government decrees, we are on the receiving end, but you, the planners, are the jam in the middle. You have our sympathy!

Thank you for being so patient! If you have any questions, I am happy to answer them if I can.

The wind lobby's view

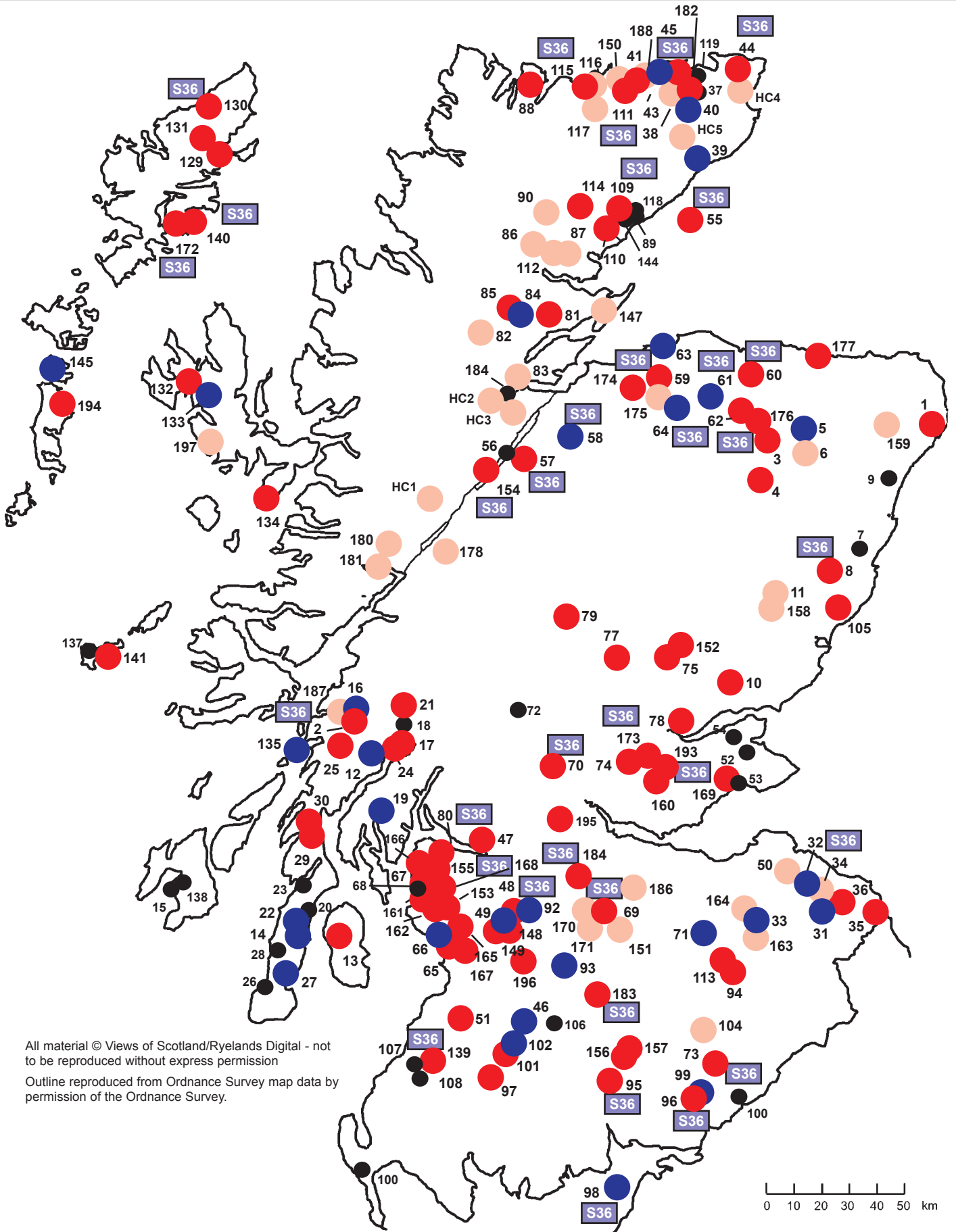
... responsibility for dealing with planning applications and local planning matters generally rests, in the first instance, with the planning authority. The general principle under which the planning system operates in Scotland is that decisions should be taken at the most local administrative level unless there are compelling reasons for taking them at a higher plane. This approach has been reinforced by successive Governments who, as a matter of policy, have kept their involvement in local decisions to a minimum.

Extract from a letter to an objector to the Edinbane proposal from the Planning Division, Development Department, Scottish Executive

To some extent the success and speed of expansion of the UK renewables industry is in the government's hands. They are beginning to put downward pressure on planning authorities to make presumptions in favour of granting planning permission for new windfarms. In other words, unless there's a very good reason for not granting permission, it should get the green light.

Extract from Renewables in the UK context, published in NRG, a Scottish and Southern Energy staff journal, December 2002.

Distribution of wind-power sites proposed to date for Scotland



- Anemometry
- Proposal or in planning
- Approved or operational
- Failed Sites