

**INFORMATION ITEM**

**REPORT BY THE HEAD OF PLANNING, REGENERATION AND REGULATORY SERVICES**

**MAJOR INFRASTRUCTURE PROJECTS  
UPDATE REPORT**

**1. PURPOSE OF REPORT**

1.1 Members will recall previous reports focusing on major infrastructure projects in Denbighshire.

1.2 This report seeks to update Members on:

- changes to the planning process for major infrastructure projects introduced by the Localism Act 2011;
- the statutory framework for major infrastructure projects; and
- the current status of major infrastructure projects in Denbighshire.

**2. BACKGROUND**

2.1 Major infrastructure projects are large scale developments such as new harbours, power stations (including wind farms), and electricity transmission lines, which require a type of consent known as 'development consent' under procedures governed by the Planning Act 2008 (as amended by the Localism Act 2011).

2.2 Previously major infrastructure projects were dealt with by the Infrastructure Planning Commission (IPC). Under the Localism Act 2011, the IPC was abolished and from the 1 April 2012 the Planning Inspectorate became the agency responsible for operating the planning process for major infrastructure projects. In Wales the Planning Inspectorate examines applications for energy and harbour development, subject to detailed provisions in the Planning Act 2008 (the '2008 Act').

2.3 The 2008 Act sets out thresholds above which certain types of infrastructure development are considered to be nationally significant and require development consent. For energy projects in England and Wales, it includes:

- Electricity generation power stations with an installed capacity over 50 megawatts onshore and 100 megawatts offshore. This includes generation from fossil fuels, wind farms, biomass, energy from waste and nuclear; and
- High voltage electricity power lines at or above 132,000 Volts.

2.4 Any developer wishing to construct a major infrastructure project must first apply for consent to do so. For such projects, the Planning Inspectorate examines the application and will make a recommendation to the relevant Secretary of State, who will make the decision on whether to grant or to refuse development consent.

2.5 The 2008 Act places a duty on the project developer to undertake extensive consultation with prescribed consultees and local communities before submitting an application for development consent to the Planning Inspectorate. The prescribed list of consultees is contained in Schedule 1 to The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009; Local Authorities and relevant Town and Community Councils are defined as prescribed consultees.

2.6 There is no statutory obligation placed on the Local Authority to respond to pre-application consultation or participate in the examination process.

2.7 However, Part 8 of the 2008 Act confers an enforcement function on the Local Authority; the Council will therefore have the power to take enforcement action post consent should the development be in breach of the provisions set out in the Development Consent Order.

2.8 When making a recommendation or a decision on an application for development consent, the Inspector(s) appointed to examine the application must have regard to any relevant National Policy Statement; any Local Impact Report submitted by a relevant Local Authority; and any other matter which the Inspector(s) consider important or relevant.

2.9 Welsh Government policy and local planning policy are material considerations, however it is for the Local Authority or other interested parties to identify relevant policies and put forward a case during the examination of the application to demonstrate why weight should be apportioned to a particular policy.

2.10. Given the scale of development in Denbighshire and the impact this will have on our local communities, Officers feel it is incumbent to fully participate in the process; in this respect key activities include responding to pre-application consultations, submitting written representations and producing a Local Impact Report. A report will be put to the Communities Scrutiny Committee (date to be confirmed) to ratify the level of involvement the Council should have with regards to major infrastructure projects.

2.11 Appendix 1 summarises the statutory stages in the planning process for major infrastructure projects which affect the Local Authority and the local community.

### **3. MAJOR INFRASTRUCTURE PROJECTS IN DENBIGHSHIRE**

3.1 There are five major infrastructure projects currently in the pre-application stages which affect Denbighshire. This includes offshore and onshore windfarms and new high voltage electricity power lines. In addition, the Gwynt y Mor offshore windfarm is currently under construction. Details of all major infrastructure projects affecting Denbighshire are detailed below:

#### **Offshore major infrastructure projects**

3.2 The offshore windfarm developments off the North Wales coast are classed as major infrastructure developments and affect Denbighshire in terms of visual, landscape and seascape impact. Offshore windfarms also need an onshore connection point to feed the power generated into the electricity grid. Onshore grid connection works are likely to be subject to a separate planning application, where the determination body is the relevant local planning authority rather than the Planning Inspectorate.

##### **3.2.1 Gwynt y Mor offshore windfarm**

- The applicant for the project is RWE Renewables Ltd.
- The proposal is for a 576 megawatt (MW) offshore windfarm in Liverpool Bay, around 18km off the North Wales coast.
- The development will consist of 160 no. 3.6MW turbines each with a tip height of 150m.
- The offshore windfarm will have a grid connection point at St Asaph.
- The Department for Energy and Climate Change (DECC) granted consent for the windfarm in December 2008 and Denbighshire County Council granted planning permission for the onshore grid connection works in early 2009.
- The development is currently under construction.

##### **3.2.2 Burbo Bank Extension offshore windfarm**

- The applicant for the project is Dong Energy.
- The proposal is to extend the existing Burbo Bank offshore windfarm in Liverpool Bay, approximately 7km north of Hoylake on the Wirral and 12.2km from the Point of Ayr in Flintshire.

- The proposed installed capacity will be approximately 250MW and the windfarm will consist of a maximum of 75 turbines with a maximum tip height of 225m.
- The windfarm extension has been offered a grid connection point at St Asaph. and the onshore grid connection works will require planning permission from Denbighshire County Council. The onshore grid connection route is yet to be finalised. None of the current route options require overhead lines. All the cabling from the shoreline to St Asaph will be underground, however a new substation will be required.
- The development is in the pre-application stages. Statutory pre-application consultation commenced on 16 April 2012 and will run until 1 June 2012.
- The developer intends to submit the applications to the Planning Inspectorate and Denbighshire County Council in early 2013.

### **3.2.3 Irish Sea Zone offshore windfarms**

- In 2008 the Crown Estate began a competitive tender process to develop offshore windfarms in nine specified zones around Britain in its third round of offshore windfarm leasing (known as Round 3). This included the Irish Sea Zone.
- The Crown Estates awarded Centrica the development rights to the Irish Sea Zone in January 2010. In March 2012, Centric and Dong Energy announced the creation of a joint venture partnership to develop, construct and operate windfarms in the Irish Sea Zone.
- A Zonal Appraisal and Planning programme has been completed which identifies three Potential Development Areas where windfarm development could be located within the Irish Sea Zone.
- The scheme is in the early pre-application stages and the development programme is currently being devised.

## **Onshore major infrastructure projects**

3.3 The following onshore developments affecting Denbighshire are classed as major infrastructure developments:

### **3.3.1 Clocaenog Forest windfarm**

- The applicant for the project is RWE Npower Ltd.
- The proposal is for a 32 turbine windfarm and associated infrastructure in the Clocaenog Forest. Each turbine would have a generating capacity of between 2 – 3MW and would have a maximum tip height of 145 metres.
- The site is wholly within the Clocaenog Forest Strategic Search Area identified in Welsh Government Technical Advice Note 8. The Welsh Government seeks to direct large scale wind farm development to within Strategic Search Areas.
- The development is in the pre-application stages. Statutory pre-application consultation was carried out in September 2011 and the application is expected to be submitted to the Planning Inspectorate in summer 2012.

### **3.3.2 Mynydd Mynyllod windfarm**

- The applicant for the project is Scottish Power Renewables Ltd.
- The proposal is for a windfarm of up to 25 turbines and associated infrastructure on Mynydd Mynyllod, approximately 5km south west of Corwen. Each turbine would have a generating capacity of 2 -3MW and would have a maximum tip height of 145 metres.
- The site is outside of the Clocaenog Forest Strategic Search Area identified in Welsh Government Technical Advice Note 8. The Welsh Government seeks to direct large scale wind farm development to within Strategic Search Areas.
- The development in the pre-application stages. Consultation on preliminary environmental information was carried out in Autumn 2011 and formal pre-application consultation is expected to commence in June 2012 (the consultation period will last 42 days).

### **3.3.3 North Wales wind farm Connections**

- The applicant for the project is Scottish Power Energy Networks (Scottish Power MANWEB) who are the distribution network operator for the North Wales area.
- The electricity grid connection infrastructure to connect the consented windfarms in the Clocaenog Forest Strategic Search Area and the proposed Clocaenog Forest windfarm is classed as a major infrastructure development as it will include new 132,000 Volt power lines from Clocaenog Forest to St Asaph. The exact route and type of infrastructure is yet to be defined but it is envisaged that overhead lines will be required.
- Any new substations would require planning permission from Denbighshire County Council.
- The development is in the early pre-application stages. Early consultation with local communities is expected to be carried out in spring / summer 2012 to help the developer refine the route options. Once the preferred route is identified, the developer will consult with the Council on the provisions of the Statement of Common Ground and formal pre-application consultation is expected in Summer 2012.

### **3.3.4 National Grid North Wales grid connection**

- The applicant for the project is the National Grid.
- The National Grid North Wales grid connection project is classed as a major infrastructure development and will affect the whole of North Wales. This is a separate development from the North Wales wind farm connections project being progressed by Scottish Power Energy Networks.
- The proposal is to upgrade the existing North Wales National Grid electricity power lines to increase the capacity on the transmission network (this is the existing very high voltage lines on large pylons which stretches across North Wales). All North Wales local authorities will be affected by this project, however the current options are only proposing to re-power the existing lines which cross through Denbighshire; no new infrastructure is proposed in the county (however new power lines and infrastructure are proposed in other North Wales counties).
- The development is in the early pre-application stages and is yet to be registered as a project with the Planning Inspectorate.

3.4 The lead officer within the planning section for major infrastructure projects is Denise Shaw, who is the Renewable Energy Schemes Planning Officer based in the Caledfryn office, and would be please to answer any questions relating to these matters..

## **4. RECOMMENDATIONS**

4.1 The report is mainly for information purposes, but Members are requested to note the key dates identified in Section 3 of this report. Useful advice notes and further information can be found on the Planning Inspectorate's dedicated National Infrastructure Planning website:

<http://infrastructure.planningportal.gov.uk/>

**GRAHAM H. BOASE**

**HEAD OF PLANNING, REGENERATION AND REGULATORY SERVICES**

## APPENDIX 2:

### THE ROLE OF THE LOCAL PLANNING AUTHORITY IN THE PLANNING PROCESS FOR MAJOR INFRASTRUCTURE PROJECTS

The tables below set out the statutory stages which relate to Local Authorities in the planning process for major infrastructure projects. Relevant non-statutory stages which affect Local Authorities have also been included and are shown in italics.

<b>A1. PRE-APPLICATION STAGE</b>		
<b>Pre-application Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
EIA scoping opinion consultation (EIA Regs)	Where the developer requests an EIA scoping opinion from the Planning Inspectorate (PINS), the Inspectorate will consult with Local Authorities and other consultation bodies prior to issuing their opinion.	Minimum of 28 days
Draft Statement of Community Consultation (SoCC) consultation (Section 47)	Prior to undertaking formal consultation with the local community, the developer is required to prepare a Statement of Community Consultation (SoCC), setting out how they are going to carry out their consultation.  The Local Authority will be invited to comment on the provisions of the draft SoCC before it is published.	28 days
Statutory consultation (Section 42)	Developer is required to formally consult prescribed consultees at pre-application stage (this includes Local Authorities and relevant Town and Community Councils).	Minimum of 28 days
Community Consultation (Section 47)	The developer is required to engage with the local community in accordance with the proposals set out in the SoCC	No statutory timescale
Publicity (Section 48)	The developer is required to advertise the project in national and local newspapers at specified stages in the process	No statutory timescale
<i>Pre-submission discussions</i>	<i>Best practice recommends developers enter into discussions with the Local Authority prior to submitting their application. This may include commenting on the draft Development Consent Order (DCO) provisions, requirements and planning obligations and agreeing a Statement of Common Ground.</i>	<i>No statutory timescale</i>

<b>A2. SUBMISSION / ACCEPTANCE STAGE</b>		
<b>Submission / Acceptance Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
Comment on the adequacy of community consultation (Section 55)	The Planning Inspectorate has 28 days to decide whether or not to accept an application.  During this time the Local Authority will be invited to comment on the adequacy of the consultation carried out by the applicant.	Less than 28 days (2 weeks is most likely)

<b>A3. PRE-EXAMINATION STAGE</b>		
<b>Pre-examination Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
Registration of Interest / Initial Representation (Section 56 & 57)	Once an application is accepted, the developer must give notice of the application to prescribed consultees, Local Authorities and any other person who is within one of more of the categories set out in Section 57.  The developer must also publicise the application in the prescribed manner and allow a minimum of 28 days for interested parties to register their interest. The deadline for expressions of interest to be clearly stated.  As a prescribed consultee, Local Authorities are automatically an 'interested party'.  The Planning Inspectorate encourage prescribed consultees to make a representation at this stage to set out their initial views on the application.	Approx. 3 month Pre-application stage.  Minimum 28 days must be given for interested parties to register their interest
Local Impact Report (Section 60)	The Local Authority will be invited to submit a Local Impact Report.  The Local Impact Report is a vital document that will help to inform the Inspectors recommendations. The aim of the LIR is to give details of the likely effects of the proposed development on the authority's area, or any part of it.  The Planning Inspectorate must have regard to any Local Impact Report during the examination of an application for development consent.	Timescale for submission of LIR will be set by Planning Inspectorate
<i>Agree a Statement of Common Ground</i>	<i>The developer may approach the Local Authority to negotiate and agree a Statement of Common Ground and seek to agree heads of terms for any necessary legal agreements (Section 174 of the 2008 Act amends section 106 of the TCPA 1990 to enable legal agreements to be entered into)</i>	<i>No statutory time limit</i>

<b>A4. EXAMINATION STAGE</b>		
<b>Examination Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
Preliminary Meeting (Section 88)	The Local Authority will be invited to attend a preliminary meeting.	6 month Examination stage
Submit Written Representation (Section 90)	The Local Authority will be invited to submit written representations..	Timescale for written reps will be set by Planning Inspectorate
Attend / speak at Hearing (Section 91 – 96)	The Local Authority will be invited to attend Hearing sessions and make oral representations where necessary.	Timescale for oral reps will be set by Planning Inspectorate

<b>A5. DECISION STAGE</b>		
<b>Decision Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
Decision Statement (Section 103-117)	The Decision make must prepare a statement of its reasons for deciding to grant of refuse development consent.  A copy of the statement should be provided to prescribed consultees and interested parties.	Planning Inspectorate has 3 months to make Decision / Recommendation  Secretary of State will have an additional 3 months
Legal Challenge (Section 118)	A court may entertain proceeding for questioning an order granted development consent only if  a) The proceedings are brought by a claim for judicial review and  b) The claim form is filed during the period of 6 weeks	6 weeks

<b>A6. POST DECISION STAGE</b>		
<b>Post- decision Stage</b>	<b>Activity</b>	<b>Statutory timescale</b>
Post consent monitoring and enforcement (Section 160-173)	Part 8 of the 2008 Act sets out the enforcement powers relating to development consent orders and confers an enforcement function on the local planning authority.	As defined in the DCO

**Glossary of abbreviations:**

DCO = Development Consent Order

EIA = Environmental Impact Assessment

EIA Regs = Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

LIR = Local Impact Report

SoCC = Statement of Community Consultation

TCPA 1990 = Town and County Planning Act 1990

2008 Act = Planning Act 2008



## FINANCIAL & RESOURCE IMPLICATIONS AND POTENTIAL IMPACTS/ RISKS ASSOCIATED WITH EACH OPTION

Table A3.1: Resource allocation options		
Option	Financial / resource implications	Potential impacts / risks
Option 1	<ul style="list-style-type: none"> <li>No financial or resource implications.</li> </ul>	<ul style="list-style-type: none"> <li>Local impacts may not be given significant weight in decision making process, unless other consultees / interested parties have raised the issue.</li> </ul>
Option 2	<ul style="list-style-type: none"> <li>No direct financial implications.</li> <li>Significant Officer time will need to be dedicated to ensure application documents can be adequately assessed. Input will be required from Officers within the following departments: Planning and Public Protection, Highways and Infrastructure, Environmental Services, Regeneration and other departments as required.</li> </ul>	<ul style="list-style-type: none"> <li>There may be capacity constraints and statutory consultation deadlines may not be met.</li> <li>Renewable energy planning officer post only funded until August 2013.</li> <li>Other service delivery may be compromised as resources are diverted to major infrastructure projects.</li> <li>The Council may not have all the necessary technical expertise to fully consider the impacts (e.g. landscape impact).</li> </ul>
Option 3	<ul style="list-style-type: none"> <li>A budget will need to be allocated and the Council will incur financial costs. Appendix B sets out indicative costs.</li> <li>Some or all of the financial costs can be recovered through different methods.</li> <li>Officer time still required, however impact on service delivery and officers will be alleviated by the use of additional internal and external resources.</li> <li>Will need to monitor officer time and expenditure per</li> </ul>	<ul style="list-style-type: none"> <li>The Local Authority receives no planning fee for major infrastructure projects, therefore cannot be resourced from existing planning budget.</li> <li>May lead to a budget reduction for other service provision.</li> <li>Welsh Government funding may not apply to all projects and may not be available in perpetuity (e.g. 2012/13 Theme 3 funding only applies to onshore windfarms over 50MW).</li> <li>There is no statutory obligation on the project developer to</li> </ul>

	<p>project (accurate cost breakdowns will be required to recover costs from Welsh Government / developer).</p> <ul style="list-style-type: none"> <li>• Legal Officer time will be required to draft legal agreements.</li> </ul>	<p>provide a financial contribution. The Council will be required to negotiate with the developer on a case by case basis; contributions are not guaranteed and may vary.</p> <ul style="list-style-type: none"> <li>• Where costs can be recovered, payment will be retrospective.</li> </ul>
--	---	--

**Table A3.2: Community engagement options**

<b>Option</b>	<b>Financial / resource implications</b>	<b>Potential impacts / risks</b>
Option A	No financial or resource implications	<ul style="list-style-type: none"> <li>• Community does not feel empowered to engage in the process.</li> <li>• Community may feel the Council's response to the application does not adequately reflect public opinion.</li> </ul>
Option B	<ul style="list-style-type: none"> <li>• Some financial implications to cover administration (e.g. postage, public notices etc.).</li> <li>• Internal resource will need to be deployed to develop a communication strategy for major infrastructure projects. Officer time will be required from Planning, Corporate Communications and Business Planning and Performance (Partnerships and Communities)</li> <li>• Sufficient Officer time will be required to engage with community representatives (e.g. Town and Community Councils) and collate and assess written community responses in advance of major infrastructure projects being submitted to</li> </ul>	<ul style="list-style-type: none"> <li>• Risk that additional engagement activities will lead to confusion and formal consultation responses from the public are submitted to the Council instead of the Planning Inspectorate.</li> <li>• Community expectations may not be fulfilled.</li> <li>• The Council's formal consultation response may not accord with the views and opinions raised by community representatives during the engagement exercise.</li> </ul>

	the Planning Inspectorate.	
Option B	<ul style="list-style-type: none"> <li>• Financial implications to cover administration and increased staffing costs.</li> <li>• Significant additional resources will be required to fully resource this option. Significant Officer time will be spent at public meetings and providing in-depth support and advice to local communities.</li> <li>• Additional staffing may be required.</li> </ul>	<ul style="list-style-type: none"> <li>• Will impact upon statutory planning function; renewable energy planning officer will need to be deployed to major infrastructure projects 100% of time (currently role is split between major infrastructure projects and development control / planning policy functions).</li> <li>• May inhibit the Council fulfilling its role as statutory consultee as resources are diverted away from casework towards community engagement.</li> <li>• Community expectations may not be fulfilled.</li> <li>• May hinder communities rather than empower them to engage as communities may expect Council to object to the project on their behalf.</li> <li>• Communities may expect to receive the same in-depth support to assist them respond to standard planning applications, which cannot be resourced.</li> </ul>

## APPENDIX 4

### INDICATIVE EXTERNAL COSTS TO RESPOND TO MAJOR INFRASTRUCTURE PROJECTS.

The current major infrastructure projects in Denbighshire are energy projects; namely onshore and offshore windfarms and new overhead high voltage electricity power lines.

A breakdown of costs incurred by the Council when assessing previous onshore windfarm planning applications through the Town and County Planning Act 1990 regime are set out below:

#### **Wern Ddu windfarm planning application & planning Appeal:**

Discipline	Cost
Consultants to defend the SSA refinement exercise at Appeal	£10,610
Landscape Consultants	£18,270
Legal Counsel	£5,400
Total	£34,280

#### **Derwydd Bach windfarm planning application**

Discipline	Cost
Planning Consultants to assess the application on behalf of the Council	£9,955
Total	£9,955

In addition, the Welsh Government has established a Wales-wide Technical Consultancy Services Procurement Framework. All consultancies on the Framework have met the public sector pre-qualification criteria. Local Authorities are party to the Framework and have the option of appointing a consultant from the Framework Agreement rather than having to formally go out to tender in accordance with public sector procurement guidelines.

The framework includes a range of technical services including environmental consultancy services. Hourly rates are set out for each consultancy ranging from Administration Assistant to Director. For comparison, rates for Chartered Professionals from relevant consultancies are set out on the page below:

### Landscape Consultants

Consultancy	Chartered Professional hourly rate
Atkins	£60.60
Gillespies LLP	£42.50
Halcrow Group Ltd	£42.77
Lingard Styles Ltd	£45.00
TACP	£59.33

### Ecological Consultants

Consultancy	Chartered Professional hourly rate
AECOM	£50.00
Capita Symonds	£35.00
Halcrow Group Ltd	£46.96
Hyder Consulting (UK) Ltd	£64.00
Jacobs	£37.00
Lingard Styles Ltd	£45.00
Opus Int. Cons (UK) Ltd	£42.00
Parsons Brinckerhoff	£46.17
TACP	£42.38

### Hydrology and Hydrogeology Consultants (Contamination)

Consultancy	Chartered Professional hourly rate
AECOM	£50.00
Capita Symonds	£40.00
Halcrow Group Ltd	£50.13
Hyder Consulting (UK) Ltd	£42.00
Mott Macdonald	£48.00
Parsons Brinckerhoff	£46.17
Smith Grant LLP	£48.00

### Acoustic, Noise & Vibration Consultants

Consultancy	Chartered Professional hourly rate
AECOM	£50.00
Atkins	£50.50
Capita Symonds	£45.00
Halcrow Group Ltd	£55.29
Jacobs	£37.00
Mott MacDonald	£46.00
Parsons Brinckerhoff	£46.17