



Department
of Energy &
Climate Change

Department of Energy & Climate Change

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3rd July 2015

Dear

Seeking views from Applicants of onshore wind farms who have reached the pre-application stage of the Planning Act 2008 process on proposed changes to the planning process for applications for onshore wind farms

As you will be aware, at present applications for onshore wind farms in England and Wales above 50MW are determined by the Secretary of State for Energy and Climate Change under the Planning Act 2008.

It is the Government's intention to implement the Conservative election manifesto commitment to give local people the final say on onshore wind farm applications.

As you will also be aware, the Department of Communities and Local Government's Written Ministerial Statement of 18 June 2015

(<http://www.parliament.uk/documents/commons-vote-office/June%202015/18%20June/1-DCLG-Planning.pdf>) sets out new considerations to be applied to proposed wind energy developers in England so that local people have the final say on onshore wind farm applications.

Government also intends to remove new onshore wind farms above 50MW from the consenting regimes in the Planning Act 2008 and the Electricity Act 1989. The effect of this will be that new applications for onshore wind farms in England and Wales will need to apply for planning permission through the Town and Country Planning Act 1990.

In order to implement this, Government intends to introduce secondary legislation (in two statutory instruments) as soon as possible which will:

- amend the Planning Act 2008 by removing onshore wind in England and Wales from the defined types of development which are required to have development consent under the Planning Act 2008; and



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- direct that the requirement for a consent under section 36 of the Electricity Act 1989 to construct, extend or operate generating stations will not apply to onshore wind farms.

Our proposal is that current applications for onshore wind farms at the pre-application stage and proposals yet to reach the pre-application stage will be treated as follows:

- Applications submitted under the Electricity Act 1989¹ or submitted and accepted under the Planning Act 2008 at the time that secondary legislation comes into force (i.e. applications which have not yet been decided), will continue to be determined by the Secretary of State for Energy and Climate Change in the same way as at present.
- Any proposal for which a full application has not been submitted (and for Planning Act applications, accepted) by the time the secondary legislation comes into force will neither require, nor be eligible to receive, a consent under the Planning Act or the Electricity Act. For clarity, in relation to the Planning Act, this will mean that any proposal in respect of which a pre-application notification has been made under section 46 of the Act would only be considered under the Act if an application has been submitted, and accepted under section 55 of the Act by the time that the statutory instrument amending the Act comes into force. In any other circumstance, an application for planning permission would need to be made, and would be determined, under the Town and Country Planning Act 1990.

We currently expect that, subject to the results of this engagement and also to Parliamentary process, the secondary legislation would come into force in the autumn or early winter of this year. We also expect to use the forthcoming Energy Bill to place the exclusion of onshore wind from the Electricity Act 1989 regime in the Electricity Act itself rather than in the secondary legislation referred to above.

Note that once onshore wind is in the Town and Country planning regime, the Welsh Government has the power to determine the process for considering applications in Wales. For example a new process for determining applications for significant developments is currently planned in Wales under the Planning (Wales) Bill, which when implemented could result in Welsh Ministers taking decisions e.g. on wind farms with a capacity greater than e.g. 25MW.

The purpose of this letter is to seek views from you, as a party that has notified the Secretary of State under section 46 of the Planning Act 2008 of a proposed application for an onshore wind farm, but who has not yet completed the pre-application stage and submitted an application. We would therefore be grateful for any response you have on the following questions by Friday 17th July 2015:

¹ Applications that were submitted under the Electricity Act 1989 before the Planning Act 2008 came into force continue to be treated as applications under the Electricity Act.



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1. Do you have any views on the Government's proposed approach to implementing its commitment, with respect to any potential effect of the proposal on your pre-application?
2. Do you have any existing evidence available that you are willing to provide to us concerning any costs or benefits of the process of submitting a full application under the Town and Country Planning Act 1990 rather than the Planning Act 2008, given any work you may have already undertaken under the Planning Act 2008 pre-application procedure?²

Please be aware that any information you provide will be anonymised and possibly included in published documents unless you indicate otherwise.

All responses can be emailed or posted to me at the above address.

The Department will be engaging separately with industry on the early closure of the Renewables Obligation for onshore wind.

Yours sincerely

Giles Scott

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Head of National Infrastructure Consents and Coal Liabilities

² As you may know, making an application under the Town and Country Planning Act should be no more costly, and can be lower, than under the 2008 Planning Act and we are aware of the relative fees (<http://infrastructure.planningportal.gov.uk/application-process/application-fees/>) (http://www.planningportal.gov.uk/uploads/english_application_fees.pdf).