

PLANNING AND ENVIRONMENTAL ISSUES IN MAJOR ENERGY INFRASTRUCTURE PROJECTS IN NORTHERN IRELAND

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Introduction

- Planning issues impacting upon applications for major energy projects
- Interrelated issues and recurring themes:
 - Need
 - Alternatives
 - Environmental impacts
- Conclusions

Planning Delays



- Delay remains endemic in the planning system
- “PAD” Process has speeded up some applications – but not all
- Sources of delay:
 - Resources/staffing
 - Consultee responses
 - Objectors and the (not unfounded) fear of judicial review
 - Environmental Information
- Joining the back of the Public Inquiry queue

Need – Planning Policy

- Policy applicable to justifying need:
- Regional Development Strategy;
- SPG-ECON 5: To undertake or where appropriate, facilitate a programme of infrastructure improvements essential to business needs
- SPG-SRC 2: To increase links with neighbouring regions and capitalise on trans-regional development opportunities
- SPG-ENV 5: To respond to the implications of climate change and promote more prudent and efficient use of energy and resources and effective waste management





Need – Planning Policy

- PSU 8 – New Infrastructure;
 - “the need for new infrastructure...will be balanced against the objective to conserve the environment and protect amenity”
- PSU 2 – Major Projects;
 - “major development projects will be assessed taking account of:
 - the contribution...to the national or regional economy or to meeting national or regional needs
 - it’s environmental effects; and
 - the availability of alternatives

Alternatives – Planning Policy

- Alternatives become a material consideration
- Planning Strategy for Rural NI:
 - PSU 2 – Major Projects
 - PSU 8 – New Infrastructure
- draft PPS 4 – Policy IBD 12; Major Industrial Development in the Countryside

Alternatives - EIA

- Statutory requirement to consider alternatives
- Not necessarily a strict requirement to consider *all* alternatives
- *Petition of Skye Windfarm Action Group (2008)*
- Only necessary to consider alternatives available to the developer
- More difficult proposition when the developer has a wide discretion to determine the area to be developed

Environmental Impact Assessment

- Planning (EIA) Regulations (NI) 1999
- Most (if not all) major energy projects will require an EIA
- Requirement to identify 'likely significant environmental effects'
- Many major energy projects will raise objections
- EIA and the resultant Environmental Statement is often a focus for challenges

Environmental Impact Assessment

- Full requirements of the EIA Regulations Schedule 4 – “matters for inclusion”:
 - Alternatives
 - Indirect, secondary, cumulative, short – long term, permanent, temporary, positive and negative effects and their interrelationships
 - Mitigation
- Further Environmental Information – Regulation 15;
 - Regulation 15(2A) and “paper chases”
 - Submission of environmental information as part of a public inquiry... can’t be done



Conclusions

- Planning delays are a fact of life
- Applicants must do all they can to minimise potential sources of delay
- Critical to the success of any application for a major energy project:
 - Need
 - Alternatives
 - Environmental Impact
- Cannot treat each in isolation
- Must give each full and thorough consideration in view of legislation, planning policy and wider policy issues

THANK YOU

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