

## Briefing for the Public Petitions Committee

**Petition Number:** [PE1864](#)

**Main Petitioner:** Aileen Jackson on behalf of Scotland Against Spin

**Subject:** Increase the ability of communities to influence planning decisions for onshore windfarms

Calls on the Scottish Parliament to urge the Scottish Government to increase the ability of communities to influence planning decisions for onshore windfarms by—

- adopting English planning legislation for the determination of onshore wind farm developments;
- empowering local authorities to ensure local communities are given sufficient professional help to engage in the planning process; and
- appointing an independent advocate to ensure that local participants are not bullied and intimidated during public inquiries.

### Background

Two separate approval systems control the development of onshore electricity generating stations, including wind farms, in Scotland. The system that applies depends on the generating capacity of the proposed development.

Proposals for large scale electricity generating stations are considered and authorised by Scottish Ministers under the provisions set out in Section 36 of the Electricity Act 1989, i.e. all generating stations with an installed capacity above the following thresholds:

- In excess of 50 megawatts (MW) for onshore wind farms, power stations that are not wholly or mainly driven by water (such as coal/gas fired or nuclear plant) and hydroelectric generating stations
- In excess of 1 MW for offshore wind farms and generating stations wholly or mainly driven by water, such as wave or tidal generating stations, but not including hydroelectric generating stations.

Where the capacity of a proposed land-based station lies below these thresholds then the application for consent must be made to the relevant planning authority, which will consider the proposal under the provisions of the Town and Country Planning (Scotland) Act 1997.

These approval processes apply to new developments and modifications to existing developments. More information can be found in the SPICe briefing [Electricity Generating Stations: Planning and Approval](#).

**England:** Until 2016 the approval processes for onshore wind farms in England were fairly similar to those in Scotland. Wind farm developments with a capacity above 50MW were treated as Nationally Significant Infrastructure Projects (NSIPs). They were considered and authorised by the appropriate Secretary of State under the provisions of the Planning Act 2008. Applications for wind farms with a capacity of less than 50MW were considered and approved by the Local Planning Authority (LPA) under the English planning system.

The Energy Act 2016 together with the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 changed this position. This legislation removed onshore wind farms of over 50MW in size from the NSIP regime and returned the decision-making powers to LPAs. More information on the English planning procedures can be found in the House of Commons Library briefing [Planning for onshore wind](#).

Anyone who participates in the planning appeal process or appears before a public inquiry held as part of the approval process under the Electricity Act 1989, is normally expected to cover their own expenses. [Guidance produced by the DPEA](#), which administers both processes, states:

“The appeal procedures support you being able to make your case to the reporter by yourself. If you employ a professional agent though, such as a planning consultant, architect or lawyer, you will normally have to cover their fees at your own cost.”

### **Scottish Government Action**

The Scottish Government is undertaking significant reform of the planning system, the legislative elements of which are set out in the Planning (Scotland) Act 2019. However, the changes proposed by the petitioners do not form part of this programme of change.

### **Scottish Parliament Action**

The Scottish Parliament has not taken any substantive action on this issue.

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