

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT INFRASTRUCTURE PLANNING (ONSHORE WIND GENERATING STATIONS) ORDER 2016

Monday 22 February 2016

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Friday 26 February 2016

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
FACILITATE THE PROMPT PUBLICATION OF
THE BOUND VOLUMES OF PROCEEDINGS
IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: MR DAVID NUTTALL

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|---|---|
| † Aldous, Peter (<i>Waveney</i>) (Con) | † Murray, Mrs Sheryll (<i>South East Cornwall</i>) (Con) |
| Beckett, Margaret (<i>Derby South</i>) (Lab) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Davies, Glyn (<i>Montgomeryshire</i>) (Con) | Sharma, Mr Virendra (<i>Ealing, Southall</i>) (Lab) |
| † Hart, Simon (<i>Carmarthen West and South Pembrokeshire</i>) (Con) | † Smith, Julian (<i>Skipton and Ripon</i>) (Con) |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | † Trevelyan, Mrs Anne-Marie (<i>Berwick-upon-Tweed</i>) (Con) |
| † Hunt, Tristram (<i>Stoke-on-Trent Central</i>) (Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| † Jones, Mr Kevan (<i>North Durham</i>) (Lab) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Leadsom, Andrea (<i>Minister of State, Department of Energy and Climate Change</i>) | Alda Barry, <i>Committee Clerk</i> |
| † Lynch, Holly (<i>Halifax</i>) (Lab) | † attended the Committee |

The following also attended, pursuant to Standing Order No. 118(2):

Smith, Jeff (*Manchester, Withington*) (Lab)

Third Delegated Legislation Committee

Monday 22 February 2016

[MR DAVID NUTTALL *in the Chair*]

Draft Infrastructure Planning (Onshore Wind Generating Stations) Order 2016

4.30 pm

Tom Pursglove (Corby) (Con): On a point of order, Mr Nuttall. May I draw the Committee's attention to my declaration in the Register of Members' Financial Interests? I am the director of Together Against Wind, the national anti-wind-farm campaign.

The Chair: Declaration noted. I call the Minister to move the motion.

The Minister of State, Department of Energy and Climate Change (Andrea Leadson): I beg to move,

That the Committee has considered the draft Infrastructure Planning (Onshore Wind Generating Stations) Order 2016.

It is a great pleasure to serve under your chairmanship this afternoon, Mr Nuttall.

The Government were elected with a clear commitment to give local people the final say on whether to have a wind farm in their area. The order helps to do exactly—and only—that, as was stated in our manifesto. This affirmative instrument amends section 15 of the Planning Act 2008, removing the obligation in that Act to obtain consent from the Secretary of State for Energy and Climate Change to construct, extend or operate an onshore wind farm in England or Wales.

The change, alongside secondary legislation already made and proposed primary legislation in relation to the Electricity Act 1989, will have the effect of removing the requirement for planning permission to be obtained from the Secretary of State for the construction of new onshore wind farms. Instead, developers will need to apply for planning permission under the Town and Country Planning Act 1990, where the primary decision maker is the relevant local planning authority. To be clear, the provision relates only to proposed new wind farms with a capacity greater than 50 MW. Smaller wind farms, including those owned by the community, are already consented by the relevant local planning authority.

The changes are further supported in England by the implementation of the written ministerial statement outlined by the Secretary of State for Communities and Local Government on 18 June last year. The combined effect of the measures is to ensure that new onshore wind is consented at local level and built only where local people have said they want it.

I wish to make it clear to all hon. Members that the intention behind the draft order and the instrument already made under the 1989 Act is simply to implement the full devolution of onshore wind consenting powers

to local authorities and away from Whitehall. The instrument does not go any further than I have set out and does not in any way change the existing Town and Country Planning Act regime, or devolve planning further than to that regime. The measure affects only new projects in England and Wales. Once onshore wind consenting powers have fully devolved to Wales, it will be for the Welsh Assembly and Welsh Government to determine how new onshore wind farms in Wales are consented.

4.33 pm

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship this afternoon, Mr Nuttall.

The order is a straightforward, almost elegant piece of secondary legislation. As we discussed in our deliberations on the Energy Bill, it will ensure that onshore wind applications of more than 50 MW are decided by local authority planning arrangements, rather than by reference to the Minister under the terms of the 2008 Act. From my reading of the text, that gives rise to very few consequentials, but that does not mean there are none overall. Has the Minister discussed with other Departments, particularly the Department for Communities and Local Government, what the consequences will be for existing planning arrangements? I will give two brief examples of consequentials that I feel might arise.

First, the existing planning application guidance for local authorities will necessarily be deficient in the new circumstances, because applications for wind stations of more than 50 MW have essentially, up to now, not come before those authorities. I am particularly keen to ensure that planning applications for onshore wind farms of more than 50 MW are actually in the hands of local authorities and of no one else. However, there is, and will remain, an appeal process to planning inspectors and there is the possibility that the process will be undertaken not by the local authority concerned. It therefore seems particularly important that proper guidance is in place as to the extent of such appeals and the circumstances in which an inspector might intervene in the process. Has the Minister had the chance to talk to the DCLG about that consequence?

Secondly, the 2008 Act generated substantial books of national planning policy guidance. Onshore wind was a part of that guidance but will no longer be—in theory, and probably in practice—as a consequence of the proposed change. Therefore, it ought at least to be considered whether the existing national planning policy guidance needs to be amended.

Those are two examples of consequences of a statutory instrument that is otherwise relatively unencumbered by consequences. There is, however, one other point on which I would like briefly to detain the Minister. The order contains essential instructions and guidance regarding applications that are already under way. The order will come into effect the day after it is made, but there will be schemes that were started in different circumstances and have not yet come out of the pipeline for final consideration. Does the Minister have a view as to what would happen were any scheme presently in the pipeline, and therefore covered by the transitional clauses, to wish to be considered by a local authority? Is it her understanding that the order would be a bar to that

happening, or are there circumstances in which a requirement to continue to work according to the 2008 Act could or should be waived?

I would be most grateful if the Minister could shed some light on my questions. In the circumstance of light being properly shed, I imagine that we could agree the statutory instrument and not divide the Committee.

4.40 pm

Peter Aldous (Waveney) (Con): I am a supporter of renewables, including onshore wind and ground-mounted solar, and I have a solar farm on the farm in which I am a family partner. I support the proposals in the draft order.

Thirty or 40 years ago, when onshore wind first arrived in the UK, there was tremendous popular support in communities for it, such as in Swaffham in Norfolk. Somehow along the way we have lost that strong local community support for onshore wind, and I suspect that one of the reasons for that is that communities have felt that schemes have been foisted upon them. The draft order enables us to give onshore wind a chance in the future. On that basis I support the proposals.

4.41 pm

Mr Kevan Jones (North Durham) (Lab): I will pick up on some of the points made by my hon. Friend the Member for Southampton, Test, in particular on the guidance and the parameters for a local authority to determine an application.

I am sorry, but I completely disagree with the hon. Member for Waveney. The draft order will mean that in many cases the wind plants do not go ahead, as popular opinion locally and the voice of the communities will clearly argue against them. It is therefore important to know what the guidance will be and how local authorities will draw up their policies on how wind plants fit into their local plans, for example. Without such guidance, a local authority could attract great costs if it declines a wind farm and that decision is appealed to the Secretary of State for Energy and Climate Change or the Planning Inspectorate. A local authority could be left in a difficult position, because in meeting local opinion and satisfying objections it might incur the cost of the appeal process. If the Secretary of State or the inspector granted the planning application, members of local planning committees could be left in a difficult position.

Will the Minister say when guidance for local authority planning committees will be produced? Will the ultimate role of the Secretary of State be similar to that in relation to other planning applications: if appealed, they end up on the Secretary of State's desk? If so, will the Secretary of State deal with them case by case, or will there be a de facto Government position whereby all applications turned down by a local planning authority will be resisted by the Secretary of State?

I also have questions about the involvement of other Departments in wind farm applications. The Ministry of Defence in particular has a clear interest in the siting of wind farms, because of the effect on military radar tracking aircraft and so on. Will individual Departments still make and be able to make objections to applications for wind farms that would be detrimental to the Department's interests? The MOD, for example, might object because of flying operations.

Finally, I remember the slogan, "vote blue, go green". Has any assessment been made of the effect of the draft legislation on the number of wind farms applications that would be successful under the proposed process?

4.44 pm

Glyn Davies (Montgomeryshire) (Con): I have one brief question for the Minister, seeking an observation as much as anything else. By way of background, I have had a personal interest—not a financial interest, but a personal interest—in renewable energy and onshore wind for about 30 years. Generally speaking, I was not opposed to onshore wind, and when it was a new technology, it was welcomed in my constituency. The Centre for Alternative Technology is based in my constituency, where there is a general thriving interest. In recent years, though, a level of development has been imposed that has caused great objection locally, and I am now thought of as an opponent of onshore wind, which is, generally speaking, the truth. That is why I welcome the draft order and everything the Minister said, but there is on point on which I seek her views.

The Minister spoke very much about localising decision making on granting permission for wind farms with an output of more than 50 MW, which is essentially being given to local government in England and Wales. In Wales, the Welsh Government have already taken in hand the permissions on wind farms smaller than 50 MW where they have decided that there are issues of significant national interest. They are going to take the power away from local councils for 25 MW upwards, so we can anticipate that local government in Wales will not have any say on such applications, which is a huge concern to me. It seems to be the opposite course from the one that most Members of Parliament would support, which is giving power to local councils. Does my hon. Friend have any observations on the likely consequence of the change in Wales?

4.47 pm

Andrea Leadsom: I will try to respond to everyone's questions. They were coming at me thick and fast, but hopefully I have caught them all.

First, I thank the hon. Member for Southampton, Test, who asked how this statutory instrument will affect the DCLG and the planning process overall, and in particular whether onshore appeals will still take place. The call-in powers and recovery capability of the Secretary of State for Communities and Local Government will remain. Call-in powers are used by the Secretary of State, or in Wales by Welsh Ministers, when a decision is taken to move an application away from a local planning authority and to make the decision themselves. Similarly, recovered appeals are used when those Ministers decide to make the final decision on an appeal themselves, rather than the Planning Inspectorate making it on their behalf. The Secretary of State or a Welsh Minister will reserve the right to call in applications and recover appeals. That power is already devolved in Wales.

Secondly, the hon. Gentleman asked whether there are any transitional arrangements. A transitional arrangement applies when a valid planning application for a wind energy development had already been submitted to a local planning authority when the written ministerial

[*Andrea Leadsom*]

statement was made last year and the development plan does not identify suitable sites. In such instances, a local planning authority may find the proposal acceptable if, following consultation, it is satisfied that the proposal has addressed the planning concerns of the affected local communities and therefore has their backing. In the case of appeals, it would need to be considered by planning inspectors on a case-by-case basis.

The hon. Member for North Durham raised the same question and asked what happens in the local planning authority process for determining whether there is local agreement. It will normally be the case that local planning permission will be given where there is scope in the local plan, as agreed by the local authority, for general approval of wind farms in its area. If a local planning authority has not yet identified sites for wind farms, there is a transitional arrangement whereby it may find a proposal acceptable following consultation with local communities, which was set out in the DCLG ministerial statement that was laid before the House last June.

Mr Jones: I am grateful for that reply, but County Durham, for example, is still going through the process of developing its local plan because it was rejected by the inspector. Where does that leave a county such as County Durham, which at the moment does not have a local plan in place, when determining where the sites should be?

Andrea Leadsom: As I said, in that transitional period, the local authority would need to consult local communities to address any concerns that they may have and only then approve a planning application when the site has the backing of local communities. That was set out in the ministerial statement in June last year. I think I have answered the hon. Gentleman's question—

Mr Jones: You haven't.

Andrea Leadsom: I will give way one last time.

Mr Jones: What the Minister is saying is that if local people object, the application can be turned down. Surely guidance has to be given to the local authorities on what is and is not a suitable site. There is guidance for every other type of thing. She is arguing for a situation in which, in a place such as County Durham where there is no plan, if local people object the proposal will be stopped. I am sure developers would not like that.

Andrea Leadsom: The national planning policy framework encourages local councils to consider identifying suitable areas for renewable energy; equally, local neighbourhood plans can identify sites. As I have said to the hon. Gentleman, it is absolutely the case—it was in our manifesto—that we are determined that local communities have the final say, so he is exactly right: in the event that the local authority cannot get the backing of the local community, it will turn down that application, and that is the point about our manifesto commitment.

Moving on to the point made by my hon. Friend the Member for Waveney, I am grateful for his support for the measure, which takes local planning absolutely to

the forefront for all onshore wind. I am also grateful to my hon. Friend the Member for Montgomeryshire for raising the very important point about how, under devolution, the Welsh Government decide how they intend to hear onshore wind farm applications. I can only confirm to him that it will be for them to decide, and I share his concern that given that this Government's policy is to ensure that local communities have their say and have the last word, it will be unfortunate if that is not the case in Wales for those in his community who want it to be, but this is a devolved matter and it will be for Welsh Ministers to decide.

Dr Whitehead: The Minister has made it clear that the commitment in the Conservative manifesto was that local authorities should have the final say. The concern that I raised in my initial comments—my hon. Friend the Member for North Durham has alluded to this—was what guidance will be in place on local authority actions once the Minister has relinquished her authority under the previous legislation to consider applications, so that local authorities really do have the final say and other factors do not come into play. It seems to me that the guidance would necessarily have to spell that out fairly clearly, either where a local authority is minded to turn down the application because there is a great deal of local opposition or good planning grounds to turn it down, or where a local authority, because there is massive local public support, is very much minded to agree an application and has the policies in place to back that up.

Andrea Leadsom: As I think I said, the national planning policy framework encourages local authorities to identify sites that are suitable for renewable energy. It also encourages neighbourhood development plans to do the same. I want to be clear that this Government believe in devolving powers to local authorities. We made a manifesto commitment that local communities will have the final say on onshore windfarms.

Mr Jones: Will the Minister give way?

Andrea Leadsom: I will not give way again; I have answered the question three times. It is absolutely our settled position that local communities will have the final say. The ministerial statement issued by the Department for Communities and Local Government in June last year sets out the process by which local communities will be able to have their say on onshore windfarm applications. By transferring decisions out of Whitehall to local planning authorities, combined with the measures set out by the Secretary of State for Communities and Local Government, we are putting local communities in the driving seat. That will deliver our manifesto commitment by ensuring that new onshore wind—

Mr Jones: On a point of order, Mr Nuttall. I thought the purpose of these Committees was to scrutinise the piece of legislation before us. The Minister is refusing to answer the legitimate concerns expressed by my hon. Friend the Member for Southampton, Test and the points I have raised. It is not the case that it is somehow left up to people to decide. A planning appeal has to go through a legal process. I expect the Minister to answer those points.

The Chair: I think the hon. Gentleman has been in the House long enough to know that that is not a point of order. The Minister has given way and is now not giving way. That is the end of the matter for the moment.

Andrea Leadsom: Thank you, Mr Nuttall. I have answered the hon. Member for North Durham four times. Unfortunately, perhaps the problem is with him.

I have been clear throughout the wide-ranging debates on this issue, including during consideration of the Energy Bill, that our manifesto commitment on onshore wind is to strengthen the position of local communities, and that is exactly what the draft order will achieve.

Question put and agreed to.

4.56 pm

Committee rose.

