

National Assembly for Wales
Environment and Sustainability Committee

Inquiry into energy policy and planning in Wales – Follow up report

October 2013



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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Environment and Sustainability Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the maintenance, development and planning of Wales's natural environment and energy resources.

Current Committee membership



Dafydd Elis-Thomas (Chair)

Plaid Cymru
Dwyfor Meirionnydd



Mick Antoniw

Welsh Labour
Pontypridd



Russell George

Welsh Conservatives
Montgomeryshire



Llyr Gruffydd

Plaid Cymru
North Wales



Julie James

Welsh Labour
Swansea West



Julie Morgan

Welsh Labour
Cardiff North



William Powell

Welsh Liberal Democrats
Mid and West Wales



Antoinette Sandbach

Welsh Conservatives
North Wales



Joyce Watson

Welsh Labour
Mid and West Wales

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Introduction

The Committee published its original detailed report on Energy Policy and Planning in June 2012 and the Welsh Government responded to our recommendations in September 2012. We were pleased that most of our 77 recommendations were accepted, at least in principle. However given the importance of the energy agenda to Wales, the Committee has continued to monitor the situation. We asked the Welsh Government for an update on our recommendations and this was made available in March 2013. We decided to take further evidence on a number of issues including unconventional gas, small-scale hydro schemes and community energy as well as hearing again from developers, local planning authorities, Natural Resources Wales and Welsh Ministers.

This new report summarises our conclusions on progress and highlights areas where we consider further action is needed.

1. Leadership

1. The view of the Committee is that **some progress** has been made since the publication of our report in June 2012 – as described by some of our witnesses there are signs of some ‘green shoots’, but the momentum needs to be maintained.

*We believe that the Welsh Government needs to show **strong leadership** in promoting the development of a range of different forms of renewable energy across Wales. There is much that remains to be done to achieve this. A recent change in Ministerial portfolios has split responsibility for energy and planning matters across several portfolios. We will be monitoring closely that this does not lead to a loss of focus on this vital agenda.*

2. The Committee was told by Natural Resources Wales in May of this year that Welsh Government officials were working on **action plans for priorities** for each form of renewable energy and that these would be published soon.

We consider it reasonable to expect the Welsh Government to produce these Action Plans no later than the end of 2013.

3. The Committee is looking forward to the publication of the **Planning White Paper and draft Planning Bill** by the end of 2013 which will hopefully begin to address many of the planning and permitting issues raised in the original report and reiterated in our subsequent evidence sessions.

4. We welcome the establishment of the **Energy Wales Strategic Delivery Group** as recommended by the Committee in its June 2012 report. The First Minister gave us a commitment that the minutes of the Group’s meetings would be made public. We understand that the first meeting of the Group was held on 10 June but the minutes of this meeting have not yet been published.

We ask the Welsh Government to make information about the important work of the Energy Wales Strategic Delivery Group publicly available, including the minutes of its meetings.

2. Energy Market Reform

5. The final outcome of the **Energy Market Reform** being introduced by the UK Government remains of critical importance.

We urge the Welsh Government to use its formal consultation role in the development and design of the Energy Market Reform to argue the case for the best possible deal for Wales and in particular the importance of parity in the Renewable Obligations Certificate regime across the UK.

3. Devolution

6. The majority view of members of the Committee was support the Welsh Government's continuing calls for the **devolution of consenting** for large-scale onshore and offshore energy-related projects in Wales as well as the transfer of responsibility for **Renewable Obligation Certificates and Feed-in-Tariffs** to ensure a "level playing field" with other parts of the UK. We recommended that the Welsh Government should publish its case for further devolution and this has now been done.

We share the Welsh Government's concern that the UK Government in its response to Part 2 of the Silk Commission has again rejected these calls. It is particularly concerned that the UK Government has gone further in suggesting that responsibility for "associated development" with Nationally Strategic Infrastructure Projects should be taken away from local planning authorities in Wales and placed with the Planning Inspectorate with ultimate responsibility resting with the UK Secretary of State.

7. The Committee heard from the First Minister that devolution of responsibility for the **Community Infrastructure Levy** is also desirable as it is closely linked to the planning system in Wales and without the transfer of responsibility it is more difficult to deliver wider economic and community benefits from energy projects.

We support the Welsh Government's call for devolution of the Community Infrastructure Levy.

4. Energy demand

8. An important message that came across from our subsequent evidence sessions was that **reducing demand** for energy is just as important as seeking new forms of energy to replace fossil fuel supply. Many of the levers to reduce demand and increase energy efficiency that are available to government are not devolved so it is important that the Welsh Government makes the best use of those that are.

We encourage the Welsh Government to give a higher priority to promoting policies and programmes that reduce energy demand alongside those promoting renewable energy. We are concerned that the recent Building Regulations announcement of a reduction in the emissions standards for new houses by 8% from 2010 levels, rather than the 40% originally consulted on, is a step in the wrong direction.

5. Planning issues

9. There has been limited progress so far on one of the Committee's key recommendations; **“freeing up the backlog” of onshore wind applications.**

10. A few more decisions on applications have been made since our report was published but many, particularly in Powys, remain undecided. The outcome of the **Mid-Wales conjoined wind farms public inquiry** will be a watershed but is unlikely to be known for at least another twelve months. The key factor will be the relative weight given by the inquiry's Inspector to Planning Policy Wales and TAN 8 as opposed to the UK Government's Energy National Policy Statements.

We urge the Welsh Government to continue to work with other stakeholders so that decisions are made on “long standing” renewable energy applications as quickly as possible.

11. The **Hyder report** which looked at the causes of these delays was published at the start of 2013, but we still do not know the Welsh Government's response to its recommendations. This will hopefully become clear when the White Paper and Draft Planning Bill are published.

However in June 2013 the First Minister and his Chief Planning Officer did give us an indication that the Welsh Government is considering the introduction of a statutory requirement for pre-application consultations with communities to take place on larger renewable energy applications and we welcome this move.

12. An important recommendation of both the Hyder report and the Independent Advisory Group's report is that the **Welsh Government should take over responsibility for ‘strategic’ renewable energy applications** (either between 5-50MW or 25-50 MW). The Committee heard arguments on either side about this idea.

We wait with interest to see what is included in the Draft Planning Bill on this issue. However we are not in favour of the option of a completely independent ‘Infrastructure Planning Commission’ style unit with no democratic accountability even to Welsh Ministers.

13. We previously suggested that the **recommendations of the Hyder report** that **did not require new legislation** should be implemented as soon as possible. There are some practical steps that can be taken now in advance of the implementation of the Planning Bill which is still a few years away.

We urge the Welsh Government to formally respond to these recommendations and to publish a timescale for their implementation where it accepts them.

14. The Committee recommended the establishment of a central team with particular expertise in renewable energy technologies to assist local planning authorities.

*The Independent Advisory Group set up by the previous planning Minister has recommended the establishment of a **Planning Advisory and Improvement Board** and this would be one way of delivering such a central team of expertise. We are unclear as to whether the Welsh Government supports this idea and would like clarity from the Welsh Government on this point.*

15. The Committee heard evidence that the use of **Technical Advice Notes** for important aspects of national spatial planning policy (such as in TAN 8) has created some difficulties and confusion.

We hope that one outcome of the current overhaul of the planning system will be a move away from the use of TANs as a means of implementing some important aspects of national planning policy that also have a local spatial dimension.

6. Community engagement and benefits

16. The Committee previously recommended that the Welsh Government should work with developers and RenewableUK Cymru on a **protocol for community benefits** by mid-2012. It also recommended that there should be a public register of benefits and that communities indirectly affected by energy developments (eg: road and grid) should also receive some benefit from developers.

17. The **Declaration for community benefits by onshore wind farm developers and operators in Wales** that was signed by a number of developers and published in July 2013 is a positive step forward. However a number of important issues remain to be resolved, including how the **public register of community benefits** will be established and funded and whether all developers will be willing to share information. In Scotland the equivalent Register of Community Benefits is administered by Community Energy Scotland. The First Minister gave a commitment to establish the public register for Wales by the end of 2013. He also said he was still in discussion with National Grid about how they might contribute given the impact of grid enhancement on communities.

We would wish to see the public register of community benefits established in Wales as soon as possible and no later than the end of 2013. We also consider that the Welsh Government should continue to work with developers to ensure that communities indirectly affected by energy development proposals should not lose out in terms of benefits from developers.

18. The Committee heard interesting evidence from **Community Energy Scotland** (CES) and in particular the role it has played as a “go-between” in negotiations involving communities and developers. The Scottish Government has an ambitious target of 500MW to be delivered through community energy schemes by 2020. CES told us that they are on course to deliver this.

In Wales at present there is no specific target for community renewable energy. The Welsh Government should consider whether such a target would be useful.

19. We heard that in Wales there was a particular problem with the provision of funding for projects prior to the formal application stage. The

Scottish Government's **Community and Renewable Energy Scheme** (CARES), helps communities to install renewable energy projects and is delivered by CES. The scheme aims to mitigate the risk of community renewables development by funding pre-planning costs. Loans are issued to fund projects up to the submission of a planning application, and are repaid with interest at financial closure. The loan is written-off if a project fails to gain consent.

We suggest that the Welsh Government should consider the establishment a similar loan scheme in Wales and should work with Community Energy Wales to deliver the scheme.

20. We also heard from a witness that the Ynni'r Fro programme set up for exemplar projects using European funding was a "fantastic idea". However on its own it is not going to deliver significant levels of either community benefit in terms of income, or significant carbon reductions.

The Welsh Government should give further consideration to other forms of support beyond the Ynni'r Fro programme to encourage a wider take-up of community-based renewable energy schemes.

7. Renewable energy targets

21. The Committee has previously heard evidence that the **renewable energy targets** for Wales need to be reviewed especially in the light of the windfarm application backlog and the current position on the Severn Barrage. Earlier this year we heard from a witness who said that the current ‘aspiration’ for onshore and offshore wind only runs until 2015/17 and that this is a very short time in terms of a developer’s project planning and delivery. The First Minister told us that the Welsh Government did not plan to revise or roll-forward its targets because it currently lacks control over many of the means to ensure that they are delivered.

We believe that the Welsh Government should now consider updating its “aspirations” for different forms of renewable energy as originally set out in the 2010 Energy Policy Statement in the light of the limited progress made to date and the uncertainty surrounding options for exploiting the tidal range of the Severn Estuary.

8. Natural Resources Wales

22. The Committee concluded in its original report that in taking forward its proposals for **Natural Resources Wales** the Welsh Government needed to ensure that **priority is given to dealing with energy projects**, from a regulatory, statutory consultee and commercial development point of view.

23. We also recommended that the Welsh Government should establish a **dedicated energy team** within **Natural Resources Wales** and should ensure that this team has adequate resources and a focus to deal with its dual roles as a statutory consultee and as an environmental permitter.

24. We considered that the introduction of Natural Resources Wales offered an opportunity to ensure that advice to applicants prior to submission is constructive and also to consider how the **planning and consenting regimes** can be **streamlined and better integrated**.

25. The Committee heard from NRW that it has established a one-stop shop for businesses and has introduced a “single voice response” to development proposals. It was also told that NRW is aiming to reach decisions on permits for all projects within a four-month period of time.

We will be monitoring closely if NRW is in reality offering a streamlined approach and is meeting its four-month permitting target.

9. Unconventional Gas

26. The situation regarding the **exploitation of unconventional gas** has developed rapidly since the Committee completed its report. The Department of Energy and Climate Change published a **Gas Strategy** in December 2012. The UK Government believes that shale gas has the potential to provide the UK with greater energy security, growth and jobs. It says that it is “encouraging safe and environmentally sound exploration to determine this potential.”

27. The strategy announced the establishment of an **Office for Unconventional Gas and Oil** to “provide a single point of contact for investors and ensure a simplified and streamlined regulatory process.” In June 2013 the Department for Communities and Local Government published new **planning guidance for England** that clarifies the interaction of the planning process with the environmental and safety consenting regimes for onshore oil and gas. The Environment Agency in England has announced actions to streamline and **simplify the regulation** of exploratory activity while maintaining environmental protection. A new **Community Engagement Charter** has been issued by the UK Onshore Operators Group. The Treasury is also consulting on fiscal measures to incentivise shale gas activity. The **Welsh Affairs Select Committee** announced in July that it is to undertake an inquiry into Shale Gas in Wales.

28. The Committee took further evidence from a range of witnesses on the potential for **unconventional gas exploitation** in Wales and it still has some concerns around the environmental safety of unconventional gas exploitation, mostly around the use of **hydraulic fracturing for shale gas**.

Our previous view was that the development of another carbon intensive energy industry at this time is not appropriate and cannot be reconciled with EU and UK commitments to reduce emissions. We have not heard any convincing evidence to suggest a change in this view. We also still have some concerns that the safety issues relating to hydraulic fracturing have not yet been adequately addressed. However given the UK Government’s position and the fact that licences for exploration already exist for parts of Wales then we consider it to be even more important that the Welsh Government should follow the example in England and issue some detailed planning guidance for dealing with planning applications for the exploration and exploitation of unconventional gas.

We believe it is important that Natural Resources Wales urgently clarifies its position on the permitting, regulating and monitoring of unconventional gas sites and the extent to which it agrees with the recently published Environment Agency's Environmental Risk Assessment for shale gas exploratory operations.

10. Hydro power schemes

29. The Committee recommended that the Welsh Government should urge the Environment Agency (now Natural Resources Wales) to produce revised guidance for **‘high head’ hydro power schemes** and to ensure a consistent approach to ‘flow splitting’ throughout Wales. We took further evidence on this issue and were told by one witness that the continuation of a flow-splitting approach coupled with impending changes to feed-in-tariffs for small-scale hydro schemes would effectively spell the end of further development of such schemes in Wales. Natural Resources Wales on the other hand told us that it was still considering the outcome of the consultation on four different options and that there was scientific evidence and a balance of views on either side of the argument.

30. Since we took further evidence Natural Resources Wales has approved new Hydropower Flow Standards for Wales. We also understand that these standards are not directly based on the four options previously consulted on by the Environment Agency. The Committee is aware that Community Energy Wales has expressed serious concerns about these new standards and how they could impact on the development of small-scale hydro schemes in Wales.

We are not in a position to judge whether these concerns are valid on the evidence we have received to date and without further information about the new standards that have now been adopted. We will want to consider this matter further.

31. In our recent evidence sessions we heard that there was some potential for local planning authorities to consider the use of **Local Development Orders** to allow for a more streamlined approval process for small-scale hydro schemes.

We support this approach and suggest that the Welsh Government should encourage further use of Local Development Orders for small-scale renewable energy projects as well as carrying out a further review of existing permitted development rights to make it easier for domestic, industrial and on-farm small-scale energy developments to proceed.

11. Anaerobic Digestion

32. The Minister for Natural Resources and Food told the Committee that he is exploring options for the next **Rural Development Plan** to provide support for the development of renewable schemes at community level, including asking farmers to work together to develop **larger-scale anaerobic digestion** proposals that are not economically viable for single farms.

We previously recommended additional support for on-farm anaerobic digestion. We would like to see the Welsh Government use the opportunity of the next Rural Development Plan to encourage a greater development of community-level renewable energy projects including anaerobic digestion.

Annex - Witnesses

The following witnesses gave evidence to the Committee. Transcripts of the meetings can be viewed at

<http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?Ild=1308>

25 April 2013

Session 1

Steve Salt	West Coast Energy
Richard Rees	North Wales Hydro Power

Session 2

Eifion Bowen	Carmarthenshire County Council
Alan Southerby	Powys County Council
Jane Lee	Welsh Local Government Association

Session 3

David Jones	Hyder Consulting
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Session 4

Katy Woodington	RWE nPower Renewables
Llywelyn Rhys	Renewable UK Cymru
Chris Blake	Community Energy Wales
Michael Butterfield	Community Energy Wales

Session 5

Carina Vopel	Directorate-General for the Environment, European Commission
Michael Schuetz	Directorate-General Energy, European Commission

23 May 2013

Session 6

Jennifer Ramsay	Community Energy Scotland
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Session 7

Ceri Davies	Natural Resources Wales
Natalie Hall	Natural Resources Wales

Dr Sarah Wood

Natural Resources Wales

13 June 2013

Session 8

Carwyn Jones AM

First Minister

Alun Davies AM

Minister for Natural Resources and Food

Rosemary Thomas

Welsh Government