

Speaking Note

COMMITTEE BRIEFING

25 June 2015

DEPARTMENTAL RESPONSE TO THE COMMITTEE OF THE ENVIRONMENT WIND ENERGY INQUIRY

Thank you, Chair, for the opportunity to brief Members on the Department for the Environment's response to the Committee's Wind Energy Inquiry.

Committee Members have already received the Department's written response to the Inquiry recommendations; however I very much welcome the opportunity to meet with the Committee and update you on how the Department is moving forward those recommendations it is possible to progress at this time. I am also happy to answer any questions that Committee Members may have.

I want to add that the Minister acknowledges the extensive and thorough inquiry process which informed the Report, which as I've said makes a really useful contribution to the debate on wind energy development.

Committee members will also be aware that, during the Assembly debate on this matter in March, the Minister gave a commitment that a number of the recommendations would be taken into account in the final drafting of the Strategic Planning Policy Statement, whilst others will be reflected in forthcoming renewable energy guidance.

As intended, the final draft of the SPPS was completed in March and circulated to Executive Colleagues. The Minister has made every effort

to bring it before the Executive since then and hopes that it will be tabled at the next Executive Committee meeting.

Other recommendations will, however, require additional research, policy development and public consultation and these can be considered as part of the fundamental review of renewable energy policy that the Minister has committed to undertaking following the publication of the SPPS. The delay in the publication of the SPPS is preventing the Department from moving forward with this strategic comprehensive review – a review that I know some Members will wish to see take place as a matter of urgency.

As the Committee will appreciate, some other recommendations fall outside of the remit of DOE and require consideration by other Departments and bodies. Nevertheless the Department is continuing to liaise with the responsible authorities, in a supporting role, to ensure that, where possible, these recommendations can also be advanced. I will now hand over to Philip McGowan who will take you through the Department's response to the key recommendations of the report.

Economic considerations/weight

In relation to the term 'economic considerations', the Committee expressed some concern that the term, which has been used in PPS18, was not clearly defined.

This matter is addressed in some detail in the Department's written response. Committee members will be aware that the issue of economic considerations received particular attention through the public consultation on the draft SPPS.

Members will also know, from the Department's briefing to the Committee on the 26th of February, that the finalised SPPS sets out a new core planning principle 'Supporting Economic Growth'.

Underpinning this new principle is additional guidance on how the planning system should weigh economic objectives in arriving at decisions on development proposals.

Members will be aware that PPS18 incorporates a 'weighting direction' to the decision-maker – effectively directing that the wider environmental, economic and social benefits of a proposal be afforded 'significant weight'. The final SPPS now clarifies that these factors should be apportioned 'appropriate' weight. This gives more discretion to the decision-maker when balancing the wider economic benefits of a proposal against potentially adverse local impacts.

In response to the report recommendation that an audit be carried out of the effectiveness of PPS18 in determining both the environmental and economic outputs of wind energy, an assessment of these issues will form part of the baseline evidence gathering for the review of renewable energy that will commence following publication of the SPPS.

Cumulative Impact

The Inquiry Report recommends that procedures be put in place so that a 'saturation point' in relation to wind turbines is clearly defined.

The consideration of the cumulative impacts of development on the landscape is already material planning consideration. Members will be aware that current policy consideration to be given to the cumulative impact of existing wind turbines; those that have permission; and those that are the subject of valid but undetermined applications.

As set out in the Department's written response, the issue of how cumulative impacts are assessed is also being addressed in draft renewable energy guidance being prepared by the Department. In particular the Department proposes to provide an updated map to councils detailing wind farm locations which will assist in the assessment of cumulative impact.

However, each and every development proposal raises unique issues, and the question of whether a landscape has the capacity to accommodate further wind energy development can only really be considered by taking account of site-specific factors. These include the range of issues identified in PPS18, such as the scale of the proposal; the consideration of existing, approved or proposed turbines; together with an appraisal of the overall sensitivity, characteristics and value of the landscape.

The best way to consider whether a particular landscape is close to reaching its maximum capacity for wind energy development (or saturation point' as the Committee term it) is for Councils to consider the factors I have set out above as they bring forward their new suite of Local Development Plans. This could involve the designation of locations within the plan area with a greater or lesser capacity to

accommodate additional wind energy development. Any policy should nevertheless be consistent with wider objectives of Government objective in relation to renewable energy.

In addition, the finalised SPPS now states that a cautious approach to renewable energy development proposals will apply within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty and the Giants Causeway and Causeway Coast and Glens World Heritage Site.

NOISE

The Committee Report makes a number of recommendations related to the assessment and control of turbine noise.

The Report recommends that the model noise conditions developed by the Institute of Acoustics, and endorsed in the rest of the UK, should be routinely attached to planning consents in Northern Ireland.

The conditions developed by the IoA for their Good Practice Guide to the application of the ETSU-R-97 are model conditions. The Guide notes that more concise conditions may be acceptable, particularly for smaller-scale developments.

The Department's response to this recommendation has been to prepare additional renewable energy guidance that will address the appropriate use of conditions and will include model noise conditions for wind energy developments. This guidance will be published on the Department's website in the next few weeks.

On a related matter, the Committee recommends that the Department should review the use of ETSU-R-97 with particular reference to the current guidelines from the World Health Organisation (WHO).

The Committee will know that ETSU is currently the established UK-wide standard in relation to the assessment and rating of noise from wind energy development.

The Committee will also be aware that the Minister has already signalled his intention to further investigate the use of the standard in Northern Ireland. However this is a complex area and will necessitate further research, policy development and public consultation and is best considered through the review of strategic planning policy for renewable energy. The current guidelines from the WHO will be considered as part of this review.

Long-term monitoring of wind turbine noise

The Committee Report also recommends that the Department should bear responsibility for ensuring that arrangements are put in place for the *long-term* monitoring of wind turbine noise.

The Department's response to this recommendation has been to incorporate, within the guidance currently being finalised, a model condition requiring a developer to undertake a noise survey within 6 months of the development being operational. This survey must then be submitted to, and agreed in writing, by the Council or the Department.

The condition also requires that the duration of such monitoring should be "sufficient to provide comprehensive information on noise levels for all turbines operating across a range of wind speeds and directions".

This is to ensure that predicted limits are comparable to actual noise immissions from the turbines.

In addition the guidance will set out a further model condition requiring the operator to assess noise immissions at a complainant's property within 4 weeks of being notified by the Council of a reasonable complaint. Such conditions should ensure, over the long-term, that any noise levels are within permitted levels.

In a related recommendation the Committee calls for the Department to work with local universities to commission independent research to measure and determine the impact of low frequency noise on those residents living in close proximity to individual turbines and wind farms.

The Department notes the value of such independent research and has made initial contact with local university representatives to explore how they may be able to assist with advancing this recommendation and with the review of strategic renewable energy policy generally.

Bespoke application forms for wind turbines

The committee recommends that a separate planning application is developed for wind turbines which would record the make, model and age of the proposed turbine.

The Committee may wish to know that there is a bespoke application form already in use by Councils and the Department for such applications. Form P1W requires the applicant to provide information such as the turbine name, overall height, hub height and rotor diameter.

The Planning General Development Order does not prescribe the application form but does set out the information a planning application

should contain. From 1 April 2015 councils can specify the form and content of their application forms.

However, in response to the recommendation the Department has included advice on the type of information of information that councils can request from applicants including the need for an accurate description of turbine / component parts.

I can also advise the Committee that the draft guidance currently being prepared recommends use of a model 'pre-condition' requiring that no development shall take place until details of the model of the turbine to be installed, its noise specification, colour and finish have been submitted to and approved in writing by the Council or as the case may be the Department.

Separation Distance

The Committee recommends that, taking into account the constraints on the availability and suitability of land for wind energy development the Department should specify a minimum separation distance between wind turbines and dwellings.

It is worth noting that planning policy states that for wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance of not less than 500 metres will generally apply.

As identified in the Department's written response, this recommendation will require further research, policy development and public consultation and therefore will be considered as part of the Department's review of strategic planning policy for renewable energy.

Screggah Wind Farm

The Committee recommends that investigations into the turbine collapse at Screggah Wind Farm are concluded as swiftly as possible and that any lessons learned should be implemented as soon as possible.

This matter is dealt with in detail in the Department's written submission. In summary, however, the DOE does not have responsibility, nor does it possess the expertise, to appraise the physical construction or mechanical integrity of wind turbines. The Department understands that the HSENI, in considering its findings, are content that the risks arising from such incidents remain low.

Notwithstanding this, the Department has contacted the HSENI and officials will be meeting next month to discuss the investigation into the incident and to further consider whether there are any implications for strategic planning policy for wind energy.

Community Engagement /Publicity

On Community Engagement the Committee has made a number of recommendations. This includes mandatory use of a 'Community Engagement' toolkit and that the range of statutory consultees is widened to reflect all users of the countryside. The Committee also recommends extending the distance for neighbour notification wind turbines beyond the current 90m radius from a proposal.

As part of pre-application consultation process the Report of the Committee recommends that, independent community engagement reports should be prepared and that written acknowledgement from residents that they have been adequately informed about the proposed development should be sought and retained as a record of the consultation.

In addition, the Committee recommends that the format of public events should take the form of organised discussion sessions with opportunities for residents to have their questions answered.

As part of the Planning Reform Agenda which has only recently been introduced on 1 April, the Department has brought forward a range of measures to improve engagement and participation in the planning process. The Planning (Development Management) Regulations 2015 require applicants for major development applications (including regionally significant applications) to undertake Pre-Application Community Consultation.

In the context of wind energy development this means any development with a generating capacity exceeding 5 megawatts. The Regulations set out minimum requirements for applicants in relation to consultation with the community, whereby at least one public event must be held, although Councils or the Department can require additional consultation taking account of the proposed development.

In relation to neighbour notification members should note that the process has become a statutory requirement as of the 1 April 2015. An amendment to the radius for wind turbines or other classes of development would require a legislative change as well as further policy development and public consultation.

New councils may adopt additional, non-statutory processes to notify neighbours beyond the minimum 90 metre statutory requirement.

It should be noted that neighbour notification is just one element of the publicity arrangements for new development proposals. Members will be aware that notice of all applications must be published in a newspaper circulating within the locality of application and that applications will also be listed on-line.

In relation to community engagement reports, the Planning Act places a duty on the applicants to prepare a 'Pre-Application Community Consultation report' to demonstrate how the applicant has complied with the requirements of legislation. A Development Management Practice Note on Pre-Application Community Consultation (PACC) was published by the Department in April.

This guidance refers to the need for applicants to provide evidence to demonstrate that the necessary steps to comply with the legislation have been taken, including specifying the persons who have been consulted on the proposed development. If the PACC report is not adequate, and the pre application requirements have not been complied with, the council or the Department has the power to decline to determine the application.

In relation to the format of public events, the new Regulations require all applicants for major and regionally significant developments to hold at least one public event to discuss the proposed application. The applicant is free to go beyond this minimum statutory requirement and the council, or the Department, can also require additional consultation taking into consideration the nature, extent or location of the proposed development.

The Department's Pre-application Community Consultation practice note emphasises the need for communities to be effectively involved in proposals that affect them. The guide advises that at a simple level community consultation should ensure that people have access to information and can put forward their own ideas and have confidence that there is a proper process for considering their views.

This concludes my summary of the Department's response to the key recommendation and we would be happy to listen to Member's views and answer any questions.



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Environment Committee Inquiry into Wind Energy in Northern Ireland: The Department of the Environment's response.

I refer to the Environment Committee's report on its Inquiry into Wind Energy in Northern Ireland and the Committee's request for a full written response on the recommendations set out within the report from the Department.

As the Minister stated in the Assembly Chamber on the motion on the report on the Inquiry into Wind Energy on 3 March 2015, the Department welcomes the Committee's report and the opportunity to provide a response to it, which is attached at Annex A.

As some of the recommendations fall outside the remit of the Department, in preparing the response, input was sought from DETI (including input from the Health and Safety Executive for Northern Ireland) and the Utility Regulator for Northern Ireland.

I hope you find this information helpful.

Yours sincerely,

Greg Cunningham
DALO
[by e-mail]

Annex A – DoE’s response to the Environment Committee’s recommendations in its Report on its Inquiry into Wind Energy in Northern Ireland.

Written Response to the Environment Committee's report on its Inquiry into Wind Energy in Northern Ireland

INTRODUCTION:

1. This is the Department's full response to the Environment Committee's Inquiry into Wind Energy, setting out the Department's position and/or proposed action for each of the recommendations in the Wind Energy Inquiry Report. This response follows on from the Department's submissions to the Inquiry into Wind Energy of February 2014 (COR/1236/2013), follow up responses to Committee questions in September and November 2014 (COR/993/2014 and COR/1229/2014 refer) and further to the Minister's contribution to the motion in the Assembly on the report on the Inquiry into Wind Energy in Northern Ireland, held on 3 March 2015.
2. As some of the recommendations fall outside of the responsibility of DoE input was sought from DETI (including the Health and Safety Executive for Northern Ireland, HSENI) and the Utility Regulator for Northern Ireland in preparing this response.
3. Environment Committee members will be aware that the Department published its draft Strategic Planning Policy Statement for Northern Ireland (SPPS) in February 2014 for public consultation.
4. It is the Minister's intention to publish the final SPPS as soon as possible following consideration by the Executive Committee.

Following the publication of the SPPS in final form, the Department will begin a fundamental review of strategic planning policy for renewable energy.

RECOMMENDATION:

The need for closer liaison between Strategic Planning Division and local councils to ensure a joined-up approach and more cohesive planning for both wind farms and individual turbines.

DEPARTMENT'S RESPONSE:

5. The Department agrees with this recommendation and can confirm to Committee Members that as well as putting in place the necessary legislation, policy and guidance, the Department will continue to support new councils as they adapt to their new role as planning authorities, particularly as they prepare their Local Development Plans and bring forward policies to reflect local circumstances.
6. The Department will keep relevant legislation, policy and guidance under review to ensure it remains appropriate.
7. The Department is currently liaising with the Local Government sector on developing mechanisms for ongoing engagement with

and assistance to councils on planning matters generally, including renewable energy.

RECOMMENDATION:

The Committee expressed some concern that the term ‘economic considerations’, which is used in PPS 18 and has been retained in the draft SPPS, has not been clearly defined and it would urge the Department to do so.

DEPARTMENT’S RESPONSE:

8. The Department would advise Members that while there is no definitive list of what is and what is not a material consideration case law has ruled, that the economic impacts of a development (where relevant) are a material consideration in the determination of planning applications.

9. A House of Lord’s Judgement set out that there are two main tests in deciding whether a consideration is material and relevant (i) it should serve or be related to the purpose of planning and it should therefore relate to the development and use of land; and (ii) it should fairly and reasonably relate to the particular application. This is the approach the Department takes now and will continue to take in the future.

10. The final SPPS will set out further detail on how economic considerations will be taken into account based upon a proportionate approach which works in the public interest.
11. This approach will ensure that planning policy plays its part in contributing to growing a dynamic, innovative and sustainable economy in the North.

RECOMMENDATION:

There should be an audit carried out by the Department of the effectiveness of PPS 18 in determining both the environmental and economic outputs of wind energy.

DEPARTMENT'S RESPONSE:

12. This recommendation would require further research and can be considered further through future review of renewable energy policy, following publication of the SPPS – see Para 4.

RECOMMENDATION:

That procedures should be put in place so that a saturation point is clearly defined, rather than being a judgement call of individual planning officials.

DEPARTMENT'S RESPONSE:

13. Currently planning policy contained within PPS 18 requires applicants for wind energy development to demonstrate that their proposed development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications.
14. The Department's Best Practice Guidance document which accompanies PPS18 also contains additional advice in relation to the assessment of cumulative landscape and visual impacts. It advises that the cumulative impact of neighbouring developments is an important material consideration. It further advises that the nature and character of the location, and the landscape in which a development is located, will in part determine the acceptability or otherwise of siting proposals in proximity to each other.
15. The consideration of the cumulative impacts on the landscape is therefore currently a material consideration in the assessment of applications for wind farm developments. This involves an assessment of the individual site characteristics e.g. topography, size, scale etc. The matter of what constitutes 'saturation point' in relation to wind energy development in any given area would therefore not just be a matter of applying a numerical threshold as one particular locality may be able to absorb development without resulting in an unacceptable adverse impact whereas another locality may not.

16. In addition to the extant policy and guidance provisions, in bringing forward their Local Development Plans, councils can introduce local policies relevant to their areas. This could include identifying localities within their boundary which may be more or less capable of absorbing and accommodating wind energy development and bringing forward appropriate policies to address this.
17. Notwithstanding this, the recommendation can be further considered in the preparation of renewable energy guidance and also through the proposed review of strategic renewable energy planning policy – see Para 4.

RECOMMENDATION:

That the standard conditions which were developed by the Institute of Acoustics, and which have been endorsed in Scotland, England and Wales, should be routinely attached to planning consents in Northern Ireland.

DEPARTMENT'S RESPONSE:

18. During the determination of a planning application for a wind energy proposal, the relevant Planning Authority considers the use of necessary, relevant and enforceable planning conditions such as those in relation to noise. The Department does attach appropriate noise conditions to planning approvals for wind farm developments.

19. In addition, the appropriate use of conditions in wind energy development will be further considered through renewable energy guidance which is currently being prepared to assist case officers in councils. It is important to note, however, that following the transfer of planning functions to local government, councils now have flexibility to determine the use of appropriate conditions in relation to the planning applications which they will decide, taking into account local circumstances.

RECOMMENDATION:

That planning applications for connection to the grid should be assessed at the same time as the turbine application.

DEPARTMENT'S RESPONSE:

20. The Department is aware of the inter-relationship between the planning process and the separate process for obtaining consent to connect to the grid. However, the consenting of grid connections falls outside of its responsibilities as this is a regulatory matter for the independent Northern Ireland Authority for Utility Regulation, Northern Ireland Electricity (NIE) and SONI (Systems Operator for Northern Ireland). DOE therefore sought and received input from the Utility Regulator directly in relation to this particular recommendation which is reflected in this response.

21. The Department is advised that NIE has to operate within the Electricity Legislation [Electricity (Northern Ireland) Order 1992], it's Distribution Licence and a Statement of Charges (which the Utility Regulator approves).
22. Whilst none of the documentation approved by the Utility Regulator places an obligation on the applicant to obtain planning permission prior to submitting an application, it should be noted that the physical connection cannot be made without all necessary statutory consents being in place. Furthermore, NIE's policy includes the requirement for planning approval within its connection application process documentation – for the purpose of ensuring that applications are bona fide and that the finite network capacity is not earmarked for projects that may not proceed. The Utility Regulator advises that this policy has been in place in excess of ten years and it has been accepted by industry participants as good industry practice.
23. Additionally, as part of its policy for Generation Connections (G59), NIE requires planning approval prior to an application for connection being made by a developer. The only exception to the requirement for planning permission is where the proposed generation project complies fully with Permitted Development rules and the applicant confirms this in writing at the time of application.
24. The Utility Regulator further advises that as a direct result of EU Directives aimed at improving the way internal markets in energy

are structured, they were given the legal authority to act as the legal Dispute Resolution Authority for certain matters. For example the Utility Regulator is the dispute body for connection issues, i.e. to the extent to which an applicant believes that NIE has been in breach of its legal or Licence conditions. The Utility Regulator advises that they will continue to work with NIE and all the relevant stakeholders within this industry to ensure that any potential delays to connections are alleviated.

25. Notwithstanding the above, the Department will seek a meeting with the Utility Regulator in order to fully consider this recommendation.

RECOMMENDATION:

That a separate application form, designed specifically for wind turbines, should be used by planning service; since there may be evidence that older machines are noisier, the make, model and age of the proposed turbine should also be recorded on the planning application form.

DEPARTMENT'S RESPONSE:

26. The Planning General Development Procedure Order which came into operation on 1 April 2015 makes no provision for a prescribed application form for planning applications. The legislation does, however, set out the information a planning application should contain. Following the transfer of the majority of planning powers

to local government on 1 April 2014, councils may develop their own unique application forms where this is considered appropriate.

27. Notwithstanding this, the recommendation can be considered further through renewable energy guidance which the Department is currently preparing.

28. It is also worth noting, that regardless of the specific questions on the application form, the planning authority can request any information it considers relevant to allow it to properly consider and determine the planning application.

RECOMMENDATION:

That the Department should review the distance for neighbour notification in the case of wind turbine planning applications with a view to extending it beyond the current 90m radius.

DEPARTMENT'S RESPONSE:

29. The neighbour notification process, previously carried out on an administrative basis, has become a statutory function when the Planning (General Development Procedure) Order (NI) 2015 came into operation on 1 April 2015. The 90 metre radius is included under the definition of "identified occupier", one of the criteria that determine which occupiers should receive a neighbour notification letter. Any amendments of the radius for wind turbines or any other

applications would require further policy development, public consultation and legislative change.

30. The legislation is intended to establish current practice in statute at a time when the new planning regime is bedding in. Also, it is important to note that councils may adopt additional non-statutory processes to neighbour notify those they consider appropriate, regardless if this is beyond the 90m statutory requirement. However, if they do tailor the process, they should administer it on a consistent basis.

RECOMMENDATION:

That the Department should review the use of the ETSU-97 guidelines on an urgent basis, with a view to adopting more modern and robust guidance for measurement of wind turbine noise, with particular reference to current guidelines from the World Health Organisation.

DEPARTMENT'S RESPONSE:

31. ETSU-R-97 is currently the established UK-wide standard in relation to the assessment of noise from wind energy development. However, as indicated at the recent Assembly debate on the Environment Committee's wind energy inquiry, the Department intends to further investigate the use of ETSU-R-97 in Northern Ireland.

32. This recommendation will therefore require further research, policy development and public consultation and can be considered through the proposed review of strategic planning policy for renewable energy following the publication of the finalised SPPS – see Para 4.

RECOMMENDATION:

That the Department should bear responsibility for ensuring that arrangements be put in place for ongoing long-term monitoring of wind turbine noise?

DEPARTMENT’S RESPONSE:

33. This recommendation is likely to require further research, policy development and public consultation, and can be considered further through the future review of renewable energy policy following the publication of the SPPS, taking into account the fact that a two-tier planning system is now in operation – see Para 4.

RECOMMENDATION:

That the Department, working with local universities, should commission independent research to measure and determine the impact of low-frequency noise on those residents living in close proximity to individual turbines and wind farms in Northern Ireland.

DEPARTMENT'S RESPONSE:

34. Whilst recognising the value of independent research in this regard the Department is mindful of the difficult budgetary pressures presently being faced, which cannot be ignored.
35. However, this recommendation can be further considered through the review of strategic renewable energy planning policy following the publication of the finalised SPPS.

RECOMMENDATION:

That the Department, taking into account constraints on the availability and suitability of land for the generation of wind energy, should specify a minimum separation distance between wind turbines and dwellings.

DEPARTMENT'S RESPONSE:

36. The Department and councils with their new planning powers will continue to consider the potential impacts, for example, on residential amenity in the determination of all planning applications for wind turbines. Extant planning policy for Renewable Energy Development states that 'For wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply.' In

addition, the Best Practice Guidance associated with PPS 18 advises on separation distances for single wind turbines.

37. Notwithstanding the above, this recommendation will be further considered through the future review of strategic planning policy for renewable energy requiring further research, policy development and public consultation – see Para 4.
38. It is also important to note that in addition to Strategic Planning Policy, councils are now preparing their new Local Development Plans which may identify additional planning policy taking into account the local circumstances in their areas.

RECOMMENDATION:

That the investigations into the incident at Screggagh wind farm, located in County Tyrone, should be concluded as swiftly as possible, both by the owners of the wind development and the Health and Safety Executive for Northern Ireland, and that any lessons learned should be implemented as soon as possible.

DEPARTMENT'S RESPONSE:

39. The Department agrees with this recommendation and would echo concerns at this unprecedented event. In preparing this response the Department has also consulted with DETI who has advised that the Health & Safety Executive for Northern Ireland has

substantially completed their investigation into the collapse of the wind turbine at Screggagh that occurred on 2 January 2015.

40. They further advise that this was the first serious incident involving large scale wind turbines in NI, and although no one was injured, there are naturally concerns about public safety both at this site, and more widely with wind turbines in general. The root cause of the failure has been identified, along with the particular generation of turbines that were potentially at risk. This fault had not been seen before in the fleet of similar turbines (1600) operating worldwide for circa 10 years.
41. An additional safety measure has now been introduced to these turbines which will prevent any reoccurrence of the incident. Given the low frequency rates of failure in the UK alongside the independent research undertaken by the Health and Safety Executive in Great Britain, HSENI in considering its findings to date, is content that the risks arising from such incidents remain low relative to other societal risks commonly experienced. Renewable UK is the trade and professional body for the UK wind industry and there is currently a forum for the wind industry (manufacturers and operators, etc.) which meets regularly to share experiences including any lessons to be learnt from such incidents.
42. Although the Department does not have any responsibility for the physical construction, mechanical integrity or the maintenance of wind turbines, it will fully consider the findings from this investigation in terms of any implications that it may have on strategic planning policy for Renewable Energy. The Department

will seek a meeting with the Health and Safety Executive in order to consider this further.

RECOMMENDATION:

That the use of a community engagement toolkit should be made mandatory, as a useful measure of independence, and the list of statutory consultees should be widened to reflect all users of the countryside.

DEPARTMENT'S RESPONSE:

43. In relation to the use of a community engagement toolkit the Department would advise that under The Planning (Development Management) Regulations 2015, from July 2015, all applications submitted for major development, including regionally significant development, will be subject to pre-application community consultation. In relation to wind energy development any electricity generating station with a capacity exceeding 5 megawatts will be considered a major development. The Regulations set out the **minimum** requirements to be placed on the prospective applicant in relation to consultation with the community. This is in addition to the publicity and statutory neighbour notification arrangements for applications. The Regulations require that the applicant holds at least one public event to discuss the proposed application. The applicant is free to go beyond the minimum statutory requirements and the council (or as the case may be the Department) can require additional

consultation taking into consideration the nature, extent and location of the proposed development and the likely effects of it being carried out.

44. In developing the draft **Community Energy Action Plan** (led by DETI), the cross departmental group will consider how best to promote best practice community engagement on renewable energy projects within the **NI context**.
45. In addition, guidance in the form of a practice note (Appendix 1) has been produced by this Department in relation to Pre-Application Community Consultation (PACC) to encourage best practice for such community engagement.
46. All applications are subject to statutory publicity and neighbour notification.
47. In relation to widening the use of statutory consultees the Department advises that it has increased the number of statutory consultees as a necessary part of placing consultees under a duty to respond to requests for expert consultee advice on planning applications within a specified timeframe in line with Article 15 of the General Development Procedure Order. This expanded statutory consultee list is focussed on those consultees who deal with the majority of consultation requests in each year as it considered that placing the duty on those bodies or individuals who only respond to a handful of consultation requests would be disproportionate. There are minimum requirements for statutory consultation and a council, or the case may be the Department,

can consult more widely with other bodies, if it considered necessary, on a non statutory basis.

RECOMMENDATION:

The Committee recommends that, as part of the pre-application consultation process, independent community engagement reports should be prepared; and that written acknowledgement from residents that they had been adequately informed about the proposed development should be prepared and retained as a record of consultation.

DEPARTMENT'S RESPONSE:

48. Section 28 of the 2011 Planning Act places a statutory duty on applicants who intend to submit a planning application for a major development, to conduct a period of Pre-Application Community Consultation (PACC) as well as prepare a 'pre-application community consultation report'. The report will demonstrate how the applicant has complied with the PACC requirements. However, there is no requirement for residents to acknowledge in writing that they have been adequately informed. The Department considers that such a requirement could lead to operational difficulties.

49. This statutory requirement will take effect from 1 July 2015. Section 28 of the 2011 Act provides an enabling power to prescribe the form of the PACC report. It does not provide an

enabling power to prescribe the content of the report in regulations, but it does provide that the PACC report must state “what has been done to effect compliance” with the consultation requirements of section 27 of the 2011 Act. The content of the report is specified in guidance.

50. The Department has prepared guidance (Appendix 1) on PACC which includes the community consultation report and related process for the operation of the two tier planning system.
51. The practice note refers to the provision of evidence to demonstrate that the steps taken to comply with legislation have been undertaken, including specifying the persons who have been consulted on the proposed development.
52. If the PACC report is not adequate and the pre-application community consultation requirements under section 27 have not been complied with, section 50 of the 2011 Act requires the council or Department, to decline to determine an application. Before deciding whether an application must be declined, the council or Department, can request additional information in order to decide whether to decline the application.

RECOMMENDATION:

The Committee recommends that information events should be properly organised discussion sessions, not just exhibitions, with opportunities for residents to have their questions answered.

DEPARTMENT'S RESPONSE:

53. Under The Planning (Development Management) Regulations 2015, from July 2015, all applications submitted for major development, including regionally significant development, will be subject to pre-application community consultation. The Regulations set out the minimum requirements to be placed on the prospective applicant in relation to consultation with the community. This is in addition to the publicity and statutory neighbour notification arrangements for applications. The Regulations require that the applicant holds at least one public event to discuss the proposed application.
54. The applicant is free to go beyond the minimum statutory requirements and the council (or the case may be the Department) can require additional consultation taking into consideration the nature, extent and location of the proposed development and the likely effects of it being carried out.
55. The Department has prepared Practice Note 10 on pre-application community consultation (Appendix 1) to encourage best practice for such community engagement and this is available on the Department's website.

RECOMMENDATION:

The Committee recommends that the level of community benefits payable should be set at government level and that these should be made a condition of planning permission.

DEPARTMENT'S RESPONSE:

56. Whilst this Department is committed to ensuring that local communities benefit from wind energy schemes that affect their area, such community benefits cannot be considered as material in taking decisions on planning applications.
57. Decisions about planning proposals should be based on planning considerations only and should not be linked to the offer of unrelated benefits which are not necessary to making the development acceptable in planning terms.
58. Furthermore, DETI has advised that it is not considered appropriate for Government to set a level of community benefit as each project and its economic viability is different. Project developers need to be able to take this into account in their negotiations with communities. However, the Department for Enterprise, Trade and Investment strongly encourage all developers to engage with the community as early as possible and to consider the opportunity, where possible, to offer the current best practice levels of £5000 per MW. It should be noted that some of the more recent projects are offering such levels in line with existing NIRIG Best Practice Guidance.

RECOMMENDATION:

The Committee recommends that a Community Benefits register should be set up as a public record of all types of benefit arising from wind developments.

DEPARTMENT'S RESPONSE:

59. This recommendation falls outside the responsibility of the Department. Notwithstanding this, within the development of the interdepartmental draft Community Energy Action Plan (led by DETI), work is already underway to establish a Community Benefits Register for all renewable energy projects.

RECOMMENDATION:

The Committee recommends that the developer gives consideration to providing compensation where there is clear and compelling evidence of a significant drop in house value directly relating to the siting of a wind development.

DEPARTMENT'S RESPONSE:

60. This recommendation would be a matter for the developer and the individual home owner.

RECOMMENDATION:

The Committee recommends that the relevance of wind farm co-operatives in promoting community engagement should be explored as a further means of strengthening community ownership of renewable energy.

DEPARTMENT'S RESPONSE:

61. This recommendation falls outside the responsibility of the Department. Notwithstanding this, DETI has advised that the draft Community Energy Action Plan (led by DETI) will note examples of and sources of advice on possible different legal ownership models. However, it will be for community groups themselves to consider if, in the first instance, a community energy project is appropriate for them, its size and scale etc and what organisational basis best suits its purposes.