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WG33507 'UCO and GPDO Consultation'

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Consultation: Subordinate Legislation Consolidation and Review - Consolidation of the Town and Country Planning (Use Classes) Order 1987 and Town and Country Planning (General Permitted Development) Order 1995

Our response is limited to the "Small Scale, Low Risk Hydropower" section, questions 55 to 63. As an organisation based in the Snowdonia National Park this document will relate to the impact of the proposals on Snowdonia. It will however be equally applicable to other protected areas within Wales.

Background:

The consultation into whether some Hydro Electric Power schemes (HEPs) could be built without first obtaining planning permission, including within national parks and protected areas, comes around 1 year after the Future Landscapes Wales report. The SMNR consultation that followed included questions around whether the environmental protections afforded by the "Sandford Principle" should be removed from the legislation protecting National Parks in Wales. There appears to be a worrying trend by the current Welsh Assembly Government (WAG) toward diluting the environmental protection of these well-loved areas.

The position small scale hydro plays in renewable energy production:

Since 2011, 90 new HEPs have been permitted in Snowdonia. These schemes have a combined installed capacity of 6.43MW (1). This is around 3/4 of the installed capacity of 1 single modern wind turbine of the type being built off the North West coast of the UK (8MW) (2). The dependency of these HEPs on FIT subsidies means they produce electricity at a far higher cost to the consumer than new offshore wind development (now being proposed for costs as low as 5.75p/kwh (3) against up to 13.30p/kwh for the combined generation and export FIT payments for small HEP (4)). It is this disproportionately high cost to the consumer compared with the small amount of renewable energy produced that has led to the scrapping of FIT subsidies from 2019 onwards.

It can be seen there is no public benefit in the construction of small scale HEP that would justify the relaxation of its regulation.

The basis for this consultation:

The report on which this consultation is based is biased, flawed and insufficient.

The report was written by Dulas Ltd a commercial hydro developer. Dulas are currently involved with the development of a HEP on the Afon Bodesi in a SAC in Snowdonia. This scheme would likely fall into the category of permitted development under the remit of this consultation. This is just one example of the obvious conflicts of interest that Dulas hold.

As part of the report Dulas Ltd consulted the entire membership of the British Hydro Association BHA and 7 local planning authorities, no conservation, landscape or recreational groups were consulted. The majority of the planning authorities objected to the principle of permitted development rights (PDR) for HEPs, whereas the majority of the other respondents (membership of the BHA) responded in favour (5). This completely predictable outcome shows the report to be little more than wish list for the hydro industry rather than research on which a meaningful consultation could be based.

There is no definition of what either "Small Scale" or "Low Risk" means in context to HEP development. The report quite rightly states that installed capacity alone cannot be used as a guide for scale but offers little else in terms of a measurement. The term "Low Risk" is also poorly defined. The damage which may be caused by HEP development is site specific and the planning authority is best placed to judge the level of risk caused by the built structures in each individual case. There is insufficient evidence to suggest that certain locations or certain schemes can be placed in a category of "Low Risk" without a thorough assessment. Current research shows that not enough is yet known of the impact of HEP development in the UK to make these assumptions (6). Far more monitoring needs to take place especially on the cumulative impact of multiple schemes in a catchment before such a position could be taken and removing the involvement of planning authorities would make this less not more likely.

Evidence from abroad has shown the true impact of small scale HEP development to be far higher than originally thought (7) and certainly higher than stated in the Dulas Ltd report with it's limited scope.

Consultation response:

Q55 Do you agree with the principle of establishing permitted development rights for small scale, low risk hydropower developments in Wales?

No.

As described above the principle of establishing PDR for some HEPs is based on a biased and inadequate report and is not supported by any independent research.

The poor state of many of the protected areas often targeted for HEP development along with the failure of many river systems to meet Water Framework Directive (WFD) objectives (only 35% of UK surface waterbodies met good status in 2017(10)) shows that all HEP requires both continued regulation through planning and further control to reduce the cumulative impact of multiple schemes within a single catchment.

As described above, due to the high cost to the consumer and low quantity of electricity produced, there seems to be no public benefit in relaxing and artificially supporting the HEP industry in this way.

Currently it is the planning authority's duty to consider the impact on WFD of the built aspects of any scheme (not NRW). With PDR there would be no mechanism for this to occur.

Q56 Do you agree that new permitted development rights should be accompanied by practice guidance? If yes, what aspects should the guidance cover?

No.

Already there are schemes built within Snowdonia where planning conditions have been ignored and environmental damage caused as a result (8). Guidance would be easier to break and harder to enforce.

The Dulas report states:

“From the outset it is essential to understand that hydro schemes are entirely bespoke and every potential site will have different characteristics that will affect the design, depending not only on the available resource (head, flow, grid capacity, etc.) or nominal power output, but also on the topography, ecology, existing structures, access, etc “(9)

If we take this to be a correct statement surely the production of an adequate guidance to cover all HEPs would be impossible.

Q57 Do you agree with the concept to allow permitted development rights for small scale, low risk Hydropower schemes in National Parks and AONBs?

No.

National Parks are some of the most treasured landscapes within Wales, their value to the Welsh people and economy is far higher than the value of resource that can be extracted from it. It is vitally

important that the appropriate National Park Authorities can promote the sustainable development and continued conservation of these areas through the role of planning. Removing their ability to do this in the case of HEP development could be seen as a piecemeal dismantling of their authority and a further attempt to weaken the protections that National Parks sit under.

Maintaining planning powers within National Parks is critical for HEP development as the topography of these areas means they are subject to a larger number of applications than many unprotected areas and the risk of cumulative impacts is greater.

The evidence does not show that PDR are required to allow HEP development within these areas. 90 HEPs have been permitted in Snowdonia since the latest LDP in 2011, the vast majority of applications.

Q58 Do you agree with those areas where permitted development rights for hydropower schemes would not apply?

No.

This proposal shows a lack of understanding of the connectivity of fresh water systems. Building of a barrier within a stream impacts transfer of sediment and nutrients for the entire downstream system. Just because the built aspects of a HEP do not sit within a European or nationally protected habitat does not mean there will be no impact on those sites where they exist within the same river system.

Q59 Do you agree with the proposed non-spatial limitations where permitted development rights for hydropower schemes would not apply?

No.

In reference to “any part of the scheme affects a main river”.

Again; this proposal shows a lack of understanding of the connectivity of river systems. Any HEP development of a stream will have an impact on the main river it connects to. For instance, if the main river is important for migratory salmonids then the spawning grounds on that river will be dependant on gravel supplied through its tributaries. This is far more important when multiple tributaries of the same main river are affected by HEP development. Therefore, every HEP affects a “main river”.

Q60 Do you agree with these conditions relating to minimising the visual / environmental impact of the intake structures and the header tank elements?

No. They are inadequate.

The size, appearance and location of the intake structure is of prime importance, these structures are often located in wild and completely undeveloped areas of high landscape value. To consider their acceptability purely based on whether they are prefabricated or not is absurd.

Q61 Do you agree with these conditions to minimise the visual impact of the pipelines?

No. They are inadequate.

To be clear the proposals would allow the surface laying of a 1.5km black plastic pipe through a National Park or AONB. Or perhaps worse allow the trenching of such a pipe using a JCB into a sensitive upland habitat.

Q62 Do you agree with these conditions to minimise visual / amenity / environmental impacts of the powerhouse and outfall?

No. They are inadequate.

Give the limited public benefit of HEP development, as detailed above. There is no reason why the building a turbine house should not be subject to exactly the same location dependant planning conditions as any other building of it's type.

Q63 Do you agree with these miscellaneous conditions relating to tree felling, water course crossings, construction practices and decommissioning?

No. They are inadequate.

To assume that every tree of ecological or landscape value within Wales is already subject to a TPO is naïve. It is also difficult to know how even trees that are covered by TPOs would be protected in the event of a HEP built under PDR. Potential HEP development of wooded areas must surely be preceded by a visit from a tree officer and appropriate location specific planning conditions put in place. Water course crossings are one of the most high-risk aspects of a HEP construction phase, safe and appropriate construction will be site specific and not possible to cover simply under guidance.

1. http://www.snowdonia.gov.wales/_data/assets/pdf_file/0007/1277215/Consultation-Documment-2018-English-low-res.pdf
2. <https://www.4coffshore.com/windfarms/burbo-bank-extension-united-kingdom-uk59.html>
3. <https://www.newpower.info/2017/09/new-offshore-wind-arrays-offer-power-post-2022-at-57-50mwh/>
4. <https://www.ofgem.gov.uk/environmental-programmes/fit/fit-tariff-rates>
5. 3.1.3
<https://gov.wales/docs/desh/research/180110permitted-development-rights-and-small-scale-low-risk-hydropower-en.pdf>
6. <https://onlinelibrary.wiley.com/doi/full/10.1111/wej.12101>
7. <https://www.balkanrivers.net/sites/default/files/broken-rivers.pdf>
8. <https://www.dailypost.co.uk/news/north-wales-news/firms-fined-after-snowdonia-beauty-13906131>
9. 2.2.3
<https://gov.wales/docs/desh/research/180110permitted-development-rights-and-small-scale-low-risk-hydropower-en.pdf>
10. <http://jncc.defra.gov.uk/page-4250>