PLANNING AND ENVIRONMENTAL ISSUES IN MAJOR ENERGY INFRASTRUCTURE PROJECTS IN NORTHERN IRELAND

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Introduction

- Planning issues impacting upon applications for major energy projects
- Interrelated issues and recurring themes:
  - Need
  - Alternatives
  - Environmental impacts
- Conclusions

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Planning Delays



- Delay remains endemic in the planning system
- "PAD" Process has speeded up some applications – but not all
- Sources of delay:
    - Resources/staffing
    - Consultee responses
    - Objectors and the (not unfounded) fear of judicial review
    - Environmental Information
- Joining the back of the Public Inquiry queue

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Need – Planning Policy



- Policy applicable to justifying need:
- Regional Development Strategy;
- SPG-ECON 5: To undertake or where appropriate, facilitate a programme of infrastructure improvements essential to business needs
- SPG-SRC 2: To increase links with neighbouring regions and capitalise on trans-regional development opportunities
- SPG-ENV 5: To respond to the implications of climate change and promote more prudent and efficient use of energy and resources and effective waste management

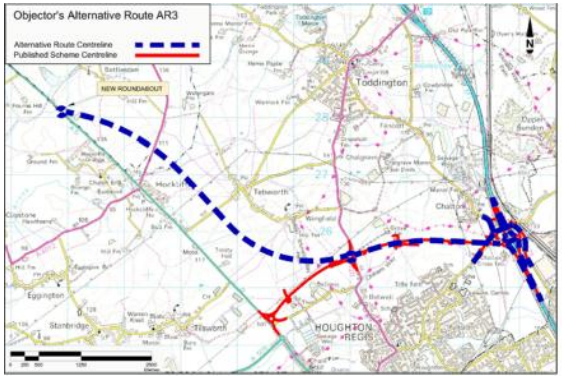
Need – Planning Policy



- PSU 8 – New Infrastructure;
  - "the need for new infrastructure…will be balanced against the objective to conserve the environment and protect amenity"
- PSU 2 – Major Projects;
  - "major development projects will be assessed taking account of:
    - the contribution…to the national or regional economy or to meeting national or regional needs
    - it's environmental effects; and
    - the availability of alternatives

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Alternatives



- Specific need can be justified, but;
- Also must justify that identified solution is the best alternative
- Policy PSU 2 specifically requires consideration of alternatives
- What alternatives to consider:
  - Do nothing?
  - Alternative technologies?
  - Alternative sites?
  - Alternative layout?

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Alternatives – Planning Policy

- Alternatives become a material consideration
- Planning Strategy for Rural NI:
  - PSU 2 – Major Projects
  - PSU 8 – New Infrastructure
- draft PPS 4 – Policy IBD 12; Major Industrial Development in the Countryside

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Alternatives - EIA

- Statutory requirement to consider alternatives
- Not necessarily a strict requirement to consider ***all*** alternatives
- *Petition of Skye Windfarm Action Group* (2008)
- Only necessary to consider alternatives available to the developer
- More difficult proposition when the developer has a wide discretion to determine the area to be developed

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Environmental Impact Assessment

- Planning (EIA) Regulations (NI) 1999
- Most (if not all) major energy projects will require an EIA
- Requirement to identify 'likely significant environmental effects'
- Many major energy projects will raise objections
- EIA and the resultant Environmental Statement is often a focus for challenges

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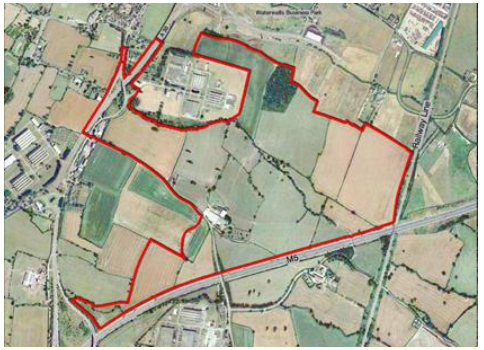
Environmental Impact Assessment

- Full requirements of the EIA Regulations Schedule 4 – "matters for inclusion":

  - Alternatives

  - Indirect, secondary, cumulative, short – long term, permanent, temporary, positive and negative effects and their interrelationships

  - Mitigation



- Further Environmental Information – Regulation 15;

  - Regulation 15(2A) and "paper chases"

  - Submission of environmental information as part of a public inquiry… can't be done

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Conclusions

- Planning delays are a fact of life
- Applicants must do all they can to minimise potential sources of delay
- Critical to the success of any application for a major energy project:
    - Need
    - Alternatives
    - Environmental Impact
- Cannot treat each in isolation
- Must give each full and thorough consideration in view of legislation, planning policy and wider policy issues

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THANK YOU



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