



RTPI

mediation of space · making of place

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28th April 2010

Email to: hydro.consultation@sepa.org.uk

Dear Sir / Madam

Response by the Royal Town Planning Institute in Scotland to the Consultation on Scottish Environmental Protection Agency Guidance for Developers of Run-of-River Hydropower Schemes

Thank you for the opportunity to respond to the above consultation. The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and politically-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2100 members in Scotland, working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and academia.

Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

Our response has been discussed with members of the RTPI in Scotland's Policy Sub-committee and I am particularly grateful to Hilary MacBean who has led our work on this response.

Our responses to the questions set out in your consultation document are given in full in Annex 1 attached to this letter whilst our general points are set out below.

The Royal Town Planning Institute in Scotland has elected to respond to this consultation as part of its commitment to supporting a planning system that is responsive to Government objectives to meet the challenge of climate change, deliver sustainable development, improve the contribution from renewable energy resources and provide an efficient planning system in this field.

This response is geared towards the interface between SEPA and Local Planning Authority responsibilities for regulating micro-hydro power generating developments. It aims to ensure that the responsibilities of each regime overlap as little as possible, in the interests of clarity, efficiency and certainty for developers and public officials in both organisations. It also aims to ensure that the criteria and material considerations of both systems are clear and fully understood.

The response includes suggestions for cross referencing with the planning system, clarification of the criteria applying to different scales of development and a clearer definition of the meaning and scope of terms used in the guidance. One or two technical points are made in relation to fish and other species.

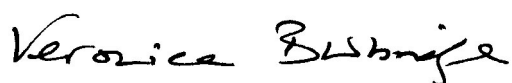
The scope for overlap between planning control and licensing under CAR, particularly on river and stream systems subject to special designations such as Ramsar sites, Special Areas of Conservation, Special Protection Areas, National Scenic Areas, SSSIs, and National Parks, indicates the need for early and joint consultation between developers, SEPA, SNH and the Planning Authority. The guidance should specifically recommend an early approach by developers, to all agencies concerned.

Subject to appropriate pre-application consultation, it can even be argued that developers should be advised to seek a CAR licence for a scheme, dealing with specific and more technical issues, before subjecting it to the wider considerations of a planning application. The specific and technical issues considered by CAR are not excluded as material planning considerations, particularly if they have not already been considered by CAR, so a sequential rather than parallel approach to the consents avoids the risk of double regulation, abortive effort and confusion to applicants. The draft SEPA guidance should make a clear cross-reference to other SEPA guidance such as Guidance for Applicants on Supporting Information Requirements for Hydropower Applications (2009), where the matter is covered.

The above guidance, published in conjunction with SNH, deals with biodiversity, protected species, landscape, amenity and the interests of other water users (although these are not defined and do not appear to include water supply). These matters are highly material to the grant of a license and planning permission but are not covered in the micro-hydro guidance, out for consultation. SNH is also publishing further detailed guidance largely intended for its own field officers but of relevance to the regulatory officials in planning and SEPA. The availability of all related guidance should be set out, as without it, the picture is incomplete and confusing.

The Institute trusts that these comments are of assistance and has no objection to them being made available to the public in the usual way. If you wish any clarification or further assistance, please do not hesitate to contact me at our Edinburgh office: 57 Melville Street Edinburgh, EH3 7HL phone: 0131 226 1959, or email: scotland@rtpi.org.uk

Yours sincerely



National Director, RTPI in Scotland

Response by the Royal Town Planning Institute in Scotland to the specific questions raised in the SEPA consultation paper

Consultation questions

Part A criteria – sub-100 kilowatt schemes

Question 1. Taking account of the mitigation described in Part B, do you agree that sub-100 kilowatt schemes identified as provisionally acceptable according to the criteria described in Part A will not cause deterioration of the water environment?

1. Disagree. The hands off flow and flow management criteria require on-going monitoring to ensure that, as specified in the criteria, they are sufficient to prevent any deterioration of the water course or habitat, particularly when they depend on active management by the operator and there is a risk of sub-optimal practices.
2. The criteria deal at length with the passage of adult fish for spawning but appear to overlook the vital function of tributaries as year round nurseries for young fry, parr and smolts spawned down stream and then moving into the tributary for their early development.

Question 2. Are there other circumstances under which you think sub-100 kilowatt schemes could be developed that will not (cumulatively or individually) pose a risk to the water environment?

3. No, the criteria appear to be proportionate as long as biodiversity, amenity of other users, landscape and water supply protection are also considered.

Question 3. Do you find the checklist format for setting out the criteria for identifying provisionally acceptable sub-100 kilowatt schemes helpful? Please make any suggestions you may have for how SEPA could make the information clearer to users.

4. The criteria set out in Part A are variably contained within the text, in list form and in tabular form. This is confusing and a consolidation into one clear reference list and a check list would assist. The check list itself is quite useable. (There also seems to be some contradiction between the text and tables e.g. are >100kW and >500kW schemes both subject to impacts relative to the length of the river involved? It is unclear whether >500kW schemes are dealt with differently to >100kW schemes and perhaps these criteria should be combined).

Part A criteria – 100 kilowatt + schemes

Question 4. Do you agree that the draft criteria on the efficiency of schemes of 100 kilowatts or more (in terms of energy output per length of river or stream affected) will help:

- *deliver Scottish Ministers' objective of optimising the use of the resource;*
- *ensure deterioration of status is not caused where there are significantly better environmental options for generating the same quantity of renewable energy?*

5. It is unclear by whom and how significantly better options will be identified. Are they existing, potential or planned schemes and do they include schemes on land outwith the applicants control? The SEPA Guidance on this subject (WAT-SG-68) is identified as a link but is not particularly helpful in its current form. Some type of sequential test of the available alternative options and their assessment for feasibility and viability could be submitted as part of the application proposal. An awareness, by regulators, of over-inflated or understated claims for the energy productivity of proposals is essential – the figures require challenge.

Part B mitigation measures

Question 5. Do you agree that the mitigation identified will help achieve Scottish Ministers' objective of minimising the adverse impacts of hydropower scheme developments on the water environment?

6. Disagree. The hands off flow and flow management criteria require on-going monitoring to ensure that, as specified in the criteria, they are sufficient to prevent any deterioration of the water course or habitat, particularly when they depend on active management by the operator and there is a risk of sub-optimal practices.

Question 6. Do you agree that, in general, the mitigation identified is likely to be practicable? If not, please give your reasons for this view.

7. No comment

Question 7. Do you think that there other practicable measures that you think could be taken to achieve an equivalent or greater level of mitigation? If yes, please describe the mitigation and your reasons for believing that it would be practicable and effective in minimising adverse impacts on the water environment?

8. No comment