Landmark Chambers

Windpower development in Northern Ireland

David Elvin QC (Chair)

PPS18 Renewable Energy (2009)

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- Greater use of renewables
- Benefits to the environment and to NI economy
- DETI's Strategic Economic Framework makes it clear that it is likely that on-shore wind will continue to provide the largest proportion of renewable electricity generation in the period to 2020, not least because it is one of the cheaper forms of renewable electricity generation
- *"3.2 The objectives of the Statement are:*
  - *to ensure that the environmental, landscape, visual and amenity impacts associated with or arising from renewable energy development are adequately addressed;*
  - *to ensure adequate protection of the Region's built and natural, and cultural heritage features; and*
  - *to facilitate the integration of renewable energy technology into the design, siting and layout of new development and promote greater application of the principles of Passive Solar Design."*

PPS18 Policy RE1

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- **Policy RE1** sets out the policy approach which begins unsurprisingly -

  "Development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

  - (a) public safety, human health, or residential amenity;
  - (b) visual amenity and landscape character;
  - (c) biodiversity, nature conservation or built heritage interests;
  - (d) local natural resources, such as air quality or water quality; and
  - (e) public access to the countryside."

- "The wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given **significant weight** in determining whether planning permission should be granted." [contrast §6.225 SPPS]

PPS18 Policy RE1 cont.

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"Applications for wind energy development will also be required to demonstrate all of the following:

(i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;

(ii) that the 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;

(iii) that the development will not create a significant risk of landslide or bog burst;

(iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;

(v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety…"

PPS18 Policy RE1 cont.

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"(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and

(vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

Any development on active peatland will not be permitted unless there are imperative reasons of overriding public interest.

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.

The supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' will be taken into account in assessing all wind turbine proposals."

PPS18 Policy cont.

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- Much of PPS18 replicated in later SPPS and the text of PPS18 also makes it clear that there is recognition of landscape/visual impact –
  - *"4.12 … By its very nature the wind resource is likely to be greatest in upland areas, which may be particularly sensitive in terms of their landscape and nature conservation value. It is also recognised that larger-scale wind energy developments are likely to be visible over distances. However, the impacts associated with such forms of renewable energy development may be considered acceptable for example because they are minor or because mitigation measures may be put in place."*
  - *"4.14. Of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. However, in assessing planning applications, the Department recognises that the impact of turbines on the landscape will vary according to the size and number of turbines and the type of landscape involved, and that some of these impacts may be temporary if conditions are attached to planning permissions which require the future decommissioning of turbines."*
- Refers to SPG **Wind Energy Development in NI's Landscapes** – *"While the SPG will be taken into account in assessing all wind turbine proposals it is not intended to be prescriptive."* (§4.15)

PPS18 Best Practice Guidance (2009)

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- To be read in conjunction with PPS18. Section 1 deals with wind power.
- The BPG gives technical guidance as to the technology and spacing of turbines, other infrastructure, grid connections and wind resource
- On planning, §1.3.2 sets out a "wide range of factors" to be considered. §1.3.3 notes:
  - *"1.3.3 Although in the past most windfarm development tended to be located in upland areas due to higher wind speeds, technological advances, and changes to the renewable electricity markets have resulted in wind speed being less pivotal in the site selection process. Generally, whether there is a reasonable prospect of obtaining planning permission is becoming a much more dominant factor in the initial site selection process*."
  - *"1.3.25 Turbines in wind farms will normally be tall, frequently located in open land, and therefore will often be highly visible…"*
- Specific guidance on nature conservation, landscape and visual impact (lengthy), groundwater/geology, heritage, noise, access, various safety issues, electromagnetic interference, aviation, shadow flicker, recreation/tourism, construction and decommissioning issues, grid connections & information to accompany applications with a long list of consultees
- Many other guidance and policy documents referenced.

Wind Energy Development in NI's Landscapes (2010)

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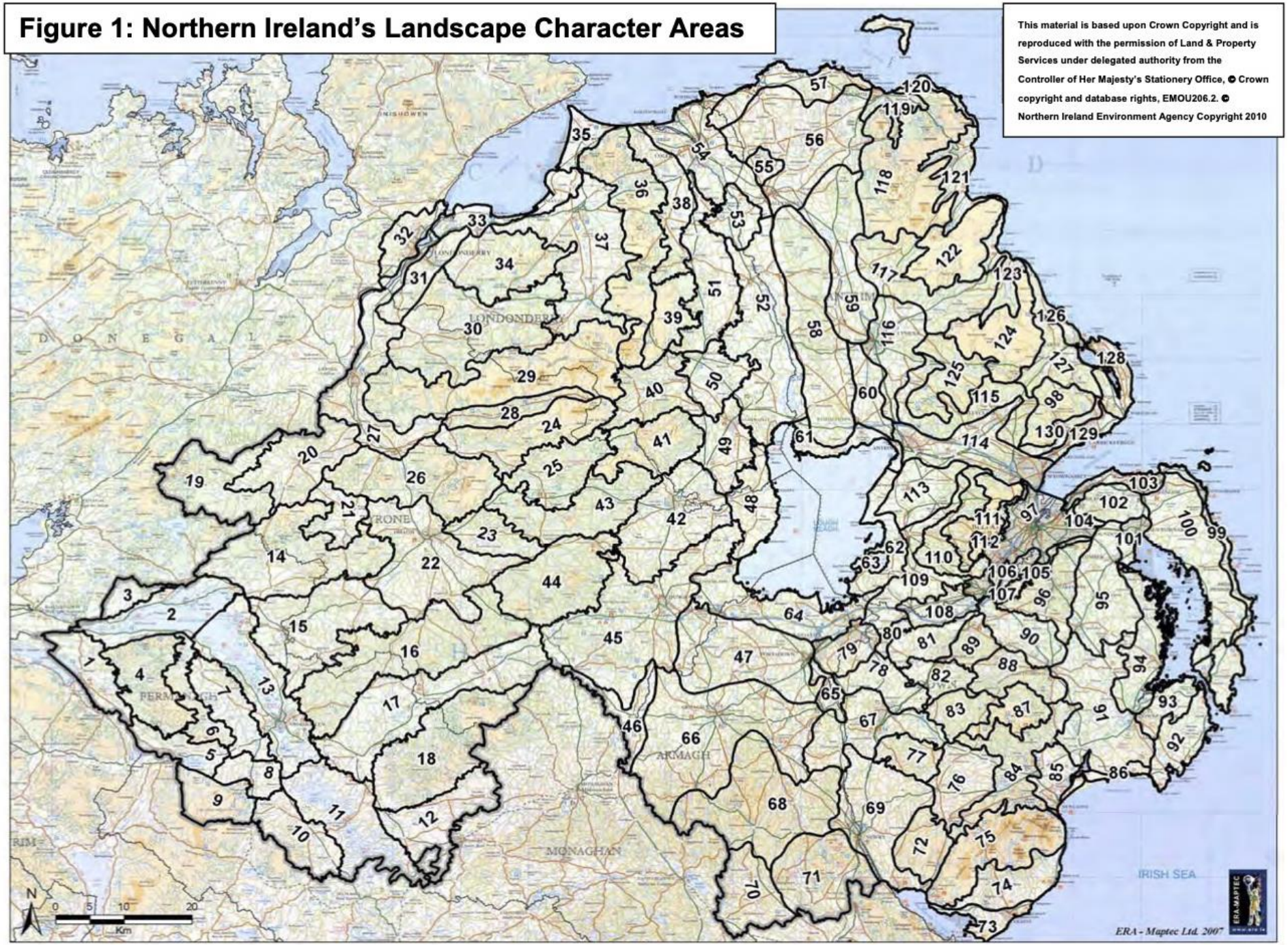
- SPG to accompany PPS 18
- Detailed guidance on landscape and visual assessment, including methodology, and in formulating wind energy applications, including information on NI character areas
  - *"This guidance shares the aim of PPS18 to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy.*
  - *This guidance is based on the sensitivity of Northern Ireland's landscapes to wind energy development and contains an assessment of each of the 130 Landscape Character Areas (LCAs) in Northern Ireland by referencing the characteristics and values associated with each LCA. The 130 LCAs are displayed in Figure 1."*

Figure 1: Northern Ireland's Landscape Character Areas



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Other policy

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- The SPPS (below) which applied to the whole of NI provides that–
  - "***1.9*** *The existing suite of Planning Policy Statements and the remaining provisions of 'A Planning Strategy for Rural Northern Ireland' will be cancelled when all eleven councils have adopted a new Plan Strategy for the whole of their council area. However, to ensure that there is continuity in planning policy for taking planning decisions whilst councils bring forward operational policies tailored to local circumstances within new LDPs, the following transitional arrangements shall apply.*
  - ***Transitional Arrangements***
  - *1.10 A transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the documents identified below together with the SPPS. Any relevant supplementary and best practice guidance will also continue to apply.*
  - *1.11 Where a council adopts its Plan Strategy, existing policy retained under the transitional arrangements shall cease to have effect in the district of that council and shall not be material from that date, whether the planning application has been received before or after that date…"*
- A number of policies are listed which may be relevant wind energy applications although there is overlap with the SPPS e.g. PPS 2 Natural Heritage, PPS 6 Planning, Archaeology and The Built Heritage; PPS 8 Open Space, Sport and Outdoor Recreation; PPS 16 Tourism. Advice as to the application of inconsistent policy is given.

Strategic Energy Framework for NI (2010)

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- §6.215 of the SPPS refers to this
- DETI's strategic aims include in addition to energy security and that "much more of our energy is from renewable sources and the resulting economic opportunities are fully exploited"
  - *"This Strategic Energy Framework will influence the future direction and development of specific energy policies in Northern Ireland – primarily those of DETI but also those of many of the other NI Departments with whom DETI has been working closely. It is not a fixed or prescriptive document but aims to set the direction of travel for the next decade and beyond and commit to a series of key actions aimed at moving strategic energy policy forward."*
- 43 actions (SEF1-SEF43) are set across 4 strategic goals (Building Competitive Markets, Ensuring Security of Supply, Enhancing Sustainability and Developing our Energy Infrastructure), including supporting the development of "a range of renewable technologies to ensure the most cost-effective and reliable mix of generation which maximises Northern Ireland's sustainable energy resources" (SEF 10) and decarbonising the energy mix (SEF 36). A number of the actions involve EU issues.

Regional Development Strategy 2035 Building for a Better Future (2010)

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- Mandatory material consideration ss. 1(2) and (3) (Dept. functions) and 5(2)(a)(iii) (plans) Planning Act (NI) 2011. Contains *Regional Guidelines* and *Spatial Framework Guidance*
- **RG11 (***Conserve, protect and, where possible, enhance our built heritage and our natural environment*) states that the environment is one of Northern Ireland's most important assets and emphasises the responsibility we have to protect it for the benefit of future generations. Specific objectives are set for the built and natural heritage including references to protecting archaeological sites/monuments, historic buildings/landscapes, priority species, designated habitat sites, landscape character scenic quality and protected landscapes.
- **SFG13** (*Sustain rural communities living in smaller settlements and the open countryside*) refers to the need for development to be sensitive to the ability of landscapes to absorb development. Industries such as tourism and renewable energy are identified as being able to provide jobs and opportunities in rural areas so long as they are integrated appropriately within the rural landscape.
- §4.15 refers to the 40% SEF target and states that "this is likely to mean an increase in the number of wind *farms both on and off shore...*"

Strategic Planning Policy Statement for NI Planning for Sustainable Development (SPPS) (2015)

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The wording of the SPPS is different in respect of renewables and needs to be carefully compared with the previous statement in PPS18

- ***"Renewable Energy***
- ***6.214*** *Northern Ireland has significant renewable energy resources and a vibrant renewable energy industry that makes an important contribution towards achieving sustainable development, and is a significant provider of jobs and investment across the region.*
- ***6.215*** *Making appropriate use of renewable energy sources is supported by wider government policy, including the Regional Development Strategy 2035 (RDS) which emphasises the need to increase the contribution that renewable energy can make to overall energy mix…"*
- ***"6.218*** *The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance."*

SPPS cont.

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- ***"Regional Strategic Policy***
- ***6.221*** *Councils should set out policies and proposals in their Local Development Plans (LDPs) that support a diverse range of renewable energy development … Moratoria on applications for renewable energy development whilst LDPs are being prepared or updated are not appropriate.*
- ***6.222*** *Particular care should be taken when considering the potential impact of all renewable proposals on the landscape. For example, some landscapes may be able to accommodate wind farms or solar farms more easily than others, on account of their topography, landform and ability to limit visibility.*
- ***6.223*** ***A cautious approach for renewable energy development proposals will apply within designated landscapes which are of significant value****, such as Areas of Outstanding Natural Beauty, and the Giant's Causeway and Causeway Coast World Heritage Site, and their wider settings. In such sensitive landscapes,* ***it may be difficult to accommodate renewable energy proposals, including wind turbines, without detriment to the region's cultural and natural heritage assets****."*

- §6.223 appears to take the acceptance of likely impacts further than previous policy advice (related to PPS18 BPG). It does not rule out AONB etc development.

SPPS cont.

- *"**6.224** Development that generates energy from renewable resources will be permitted where the proposal and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on the following planning considerations:*
  - *public safety, human health, or residential amenity;*
  - *visual amenity and landscape character;*
  - *biodiversity, nature conservation or built heritage interests;*
  - *local natural resources, such as air quality, water quality or quantity; and,*
  - *public access to the countryside.*
- ***6.225** The **wider environmental, economic and social benefits** of all proposals for renewable energy projects **are material considerations that will be given appropriate weight** in determining whether planning permission should be granted."*
- (Contrast "significant weight" in PPS18 SE1)

SPPS cont.

- Important recognition that there is likely to be visual impact –
  - *"**6.230** It will not necessarily be the case that the extent of visual impact or visibility of wind farm development will give rise to negative effects; **wind farm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape**. The ability of the landscape to absorb development depends on careful siting, the skill of the designer, and the inherent characteristics of the landscape such as landform, ridges, hills, valleys, and vegetation."*
- See also **6.223** (above) –
  - *"it may be difficult to accommodate renewable energy proposals, including wind turbines, without detriment to the region's cultural and natural heritage assets."*
- **6.234** refers to *'Wind Energy Development in Northern Ireland's Landscapes'* (above)

Renewables energy usage in NI

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- See quarterly *Electricity Consumption and Renewable Generation Statistics* (DfE and NISRA)
  - *https://www.economy-ni.gov.uk/articles/electricity-consumption-and-renewable-generation-statistics*
- DfE provides quarterly figures, on a rolling year basis, for the previous 12 months' energy consumption, total contribution of renewables generated in NI to energy consumption and proportion of that renewables supply which is provided by NI wind generated energy -
  - Issue 12: 07/18-06/19 – 44.0% (85.3% wind)
  - Issue 13: 10/18-09/19 – 44.9% (85.2% wind)
  - Issue 14: 01/19-12/19 – 43.7% (83.5% wind)
  - Issue 15: 04/19-03/20 – 46.8% (85.4% wind)
- March 2020 - highest rolling 12 months percentage on record. To March 2020, some 7,695 GWh of total electricity consumed in Northern Ireland of which some 3,604 GWh was generated from renewable sources within Northern Ireland.

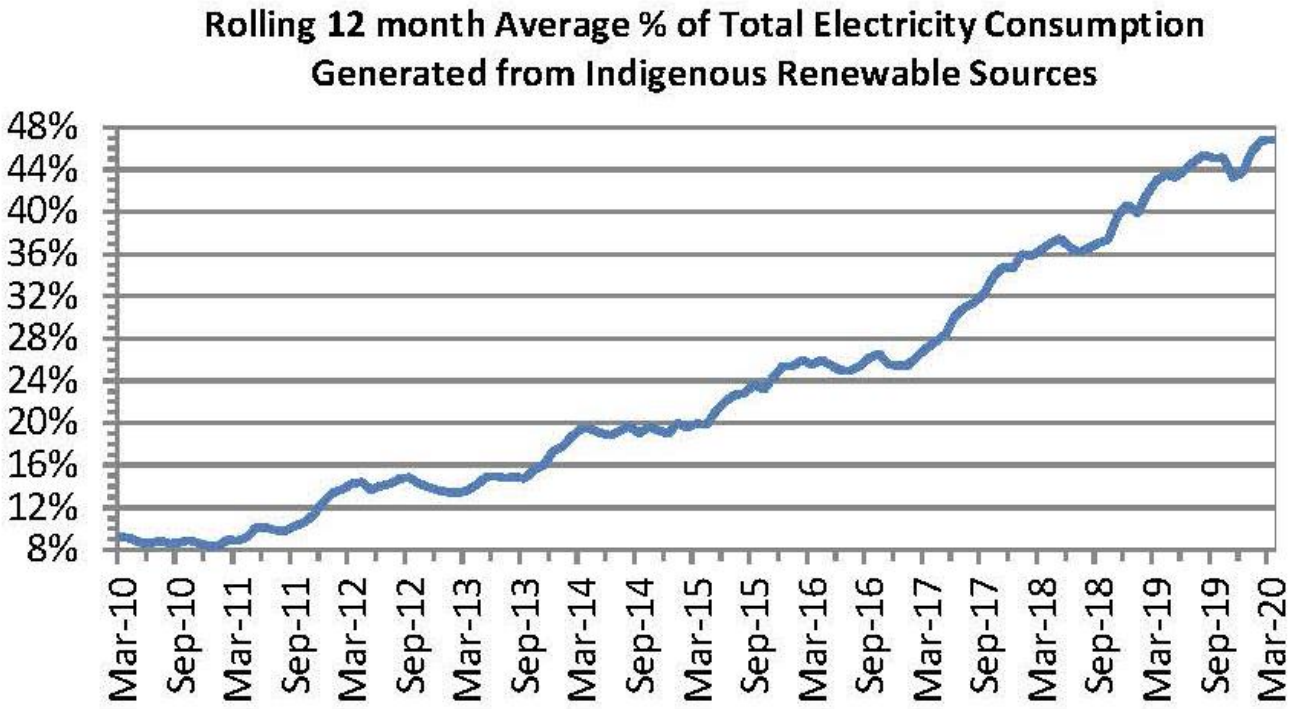
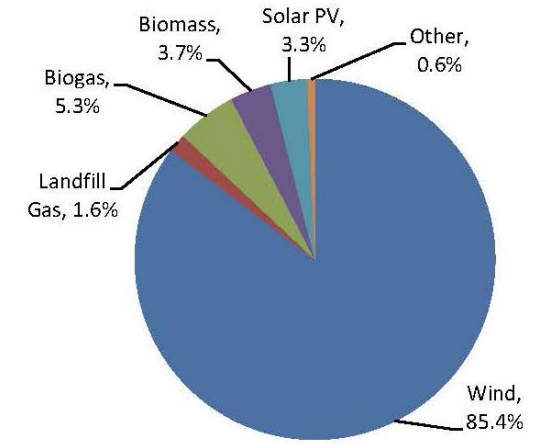
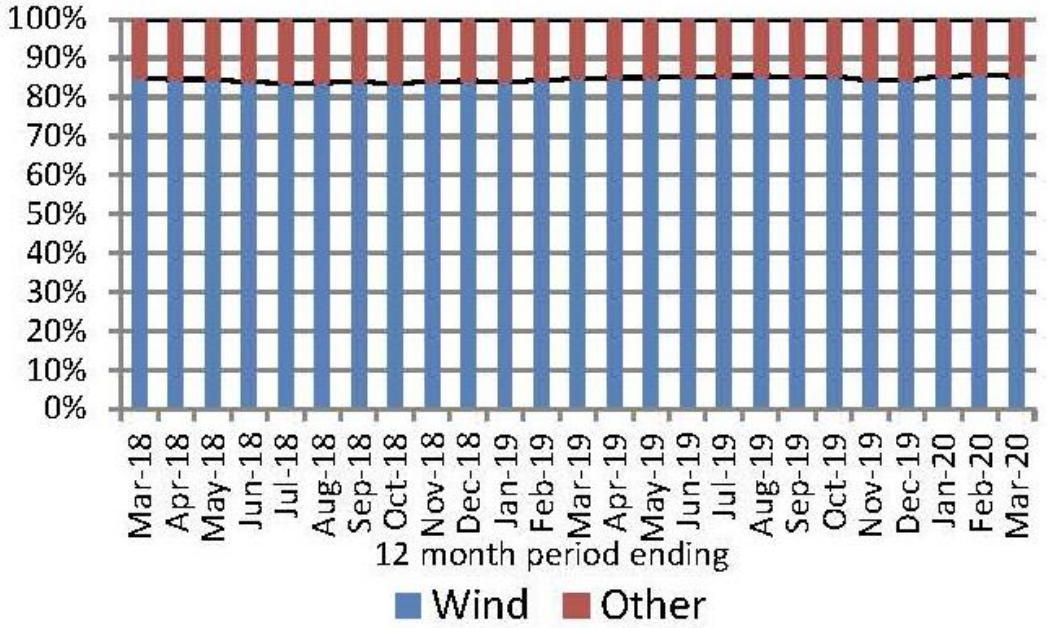


Figure 4: Renewable Electricity Generation by Type of Generation (April 2019 to March 2020)



Other includes Hydro and Combined Heat & Power (CHP)

Figure 5: Rolling 12 month Percentage of Renewable Electricity Generation by Type of Generation (March 2018 – March 2020)



Data source - monthly electricity distribution figures compiled by Northern Ireland Networks Ltd (NIE Networks). Part is supplied by the System Operator for Northern Ireland (SONI). The data is calculated by NIE Networks using monthly generation data (some of which is provided by SONI) and monthly demand data (aggregating actual and estimated NIE Networks meter readings across domestic and non-domestic sectors).

Decision-making

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Decisions are case specific balancing of factors set out in policy and applicable in the context of the specific development acknowledging the NI specific economic and energy considerations e.g.

- ABO Wind (NI) Ltd (PAC 4.4.16) granting permission for 14 turbines (max 125m tip height) in the Sperrins AONB ("would introduce prominent features in the landscape") – wide and expansive landscape that could accommodate
- Dunmore Windfarm (PAC 15.6.18) extension of 8 turbines (max 126m tip height) within Binevenagh AONB; acceptable because of existing turbines and substantial benefits; reliance on policy that some impact to be expected
- Barr Cregg Windfarm (PAC 8.8.19) 7 turbines (max 125m) and infrastructure. Not AONB but
- "35. …the proposed development would read with the single turbine located on the skyline to the north and have a discordant relationship given the size and location of the latter. The effect would be visually jarring and adverse. Notwithstanding this, the impact of visual amenity and landscape character would not be unacceptable when the effect is weighed in the balance with the wider environmental, economic and social benefits associated with the proposal."
- NI's largest windfarm, proposed at Doraville in the Sperrins AONB, awaiting decision from the Minister. 33 turbines proposed (23 at max height 149m, 10 at 136m). The Commissioner reported earlier this year after a hearing in September 2019.

Thank you for listening

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