

Briefing Note: Peatland, Habitats and Renewable Energy Deployments in Wales

22 January 2025

Summary:

This paper is primarily focused on peat soil / peatland habitats and wind farms, though the issues apply equally to all Section 7 and development types.

Planning Policy Wales requires the avoidance of habitats in their widest sense when selecting a development site. It requires alternative sites and design options to be explored to avoid impacts. There is a presumption against the development of Section 7 irreplaceable habitats. These habitats may only be developed in wholly exceptional circumstances. This gives Section 7 habitats a similar status in Planning as SSSIs.

Recent planning Decisions have determined that the need for renewable energy is wholly exceptional, and it overrides the need to protect Section 7 irreplaceable peatland habitats. Several PEDW planning inspectors have also concluded as part of recent cases, that peatland habitats are not necessarily irreplaceable habitats, although that conclusion was not supported by Welsh Ministers.

Following these recent planning Decisions, Officials are seeking to clarify the position of Section 7 habitats in the planning system with Ministers.

If the 'wholly exceptional' principle continues to be applied in this way to all renewable energy projects, this in effect means that no peatland (or other Section 7 habitat) outside of protected / designated area (SSSI / National Park) has any protection from renewable energy, even though other siting and design choices to avoid the peat impacts are likely available. It would effectively negate the current policy around irreplaceable habitats, with significant implications for the delivery of our Net Zero and biodiversity targets.

Peatland officials do not believe there to be a genuine conflict between wind farm developments and peat. The issue is the site selection approach taken by developers.

Choices now need to be taken about the next steps, as continuing with the status quo feels untenable.

Are all peatlands irreplaceable?

The renewables sector consider that degraded / poor condition peat habitat is not irreplaceable and restoration enhancement measures offset the loss. This is not correct.

90% of peatland habitats are in varying degrees of poor or degraded condition. Planning Policy Wales and Section 7 habitats are not defined by condition so the vast majority of peatland in Wales will be classed as irreplaceable.

Restoring peatlands is not the same as recreating peatlands. These habitats which are nearly all degraded to some extent can be restored to something approaching their target state. Removing or damaging the peat rules that out as an option for present or

future generations. These habitats support unique assemblages of species which once lost means that they will be lost too.

Peat habitats are Section 7 habitats with a Duty – to *take all reasonable steps to maintain and enhance*. The definition of irreplaceable habitats and the use of wholly exceptional should help stop developers claiming everything is degraded and puts the emphasis on them to avoid.

What is the extent of the issue?

Deep peat is present over c.4% of Wales' land area and peat habitats may extend up to up 11% of Wales, mainly in the uplands. Approximately 64-72% of the peat soil and peat habitat resource is confined to protected and designated landscapes (accounting for 36% of Wales). The remainder has no protection from renewable energy developments.

Officials estimate c.22 wind farms have been built on peat to date.

There are a further 45 wind farms in the planning system of which 35 applications have peat impacts. 5 of the 35 will come forward through TGC, the state developer.

Prior to issuing the changes to Planning Policy in October 2023, only 2 schemes were applications and a further 4 schemes had notified PEDW of their intent to submit applications. The remaining schemes were all in the pre-application phase meaning none were at an advanced stage.

Low Estimate:

Officials are confident peat soil is present across 82,156ha (3.9% of Wales). Of this, 59,050ha has a moratorium of no wind farm development (SSSI, National Park, AONB). So, the current 35 wind farm cases are focused on 28% of the national peat resource (23,106ha – 1.2% of Wales).

High Estimate:

If a higher figure is taken for peat habitats, they may be present on 236,254ha (11% of Wales). Of this, 154,000ha has a moratorium of no wind farm development (SSSI, National Park, AONB). So, the current 35 wind farm cases are focused on 36% of the national peatland Section 7 habitat resource (82,200ha – 4% of Wales).

Pre-Assessed Areas (PAA)s for Wind Turbines:

Of the PAAs, between 1 and 7% of the area may have peat habitats and soils, leaving between 93% 99% of the PAAs without peat. Only 9 wind farm proposals are located in the PAA; the remainder are located outside.

Conclusion:

Peatland officials and NRW peatland specialist believe there is scope to develop wind farms without peat impacts. No evidence has been presented by the sector to show one interest must override the other. ***The primary issue is the fact that the existing pipeline of windfarm projects have made applications which cover areas outside***

the PAA, as well as failing to carry out proper pre-application assessments and failing to properly apply policy in relation to S.7 irreplaceable habitats.

What is the extent of the impact?

The 35 wind farm applications in the system would offset in the region of 11 to 16 years of emissions reduction achieved through restoring peatlands by NPAP. It is likely to offset habitat gains by 2 years.

The losses from the 22 wind farms already operational account for offsetting a further 2-4 years of emissions otherwise saved through restoration by NPAP. Repowering all wind farms may account for an additional 6-10 years of NPAP restoration activity. It is likely to offset habitat gains by 2 years.

Welsh Government would fail to meet its peatland Net Zero contribution under these scenarios. It is likely to offset habitat gains by 4 years.

Effectively, if the current pipeline of projects is agreed the impact on our peatland resource will be substantial, negating years of NPAP restoration activity and putting other S.7 habitats at risk.

Options:

Ideally, we want to identify an option which both retains our current planning policy for s.7 irreplaceable habitats and aligns with WG renewable energy targets. This is challenging but not necessarily impossible:

- The planning Decisions made to date set a precedent for wind farm developments to be considered as 'wholly exceptional' – action would be needed from Planning Division to support the current policy approach, including publishing clearer guidance (a draft is already in existence) and potentially clarifying the definition of 'wholly exceptional'.
- Future applications for wind farm projects would need to properly apply the Pre-Assessed Areas and carry out meaningful pre-application processes – properly applying the s.7 irreplaceable habitat policy from the outset. We can support this approach and NRW are in the process of recruiting an adviser who can get involved early in the process of application development. We believe it is possible for future wind farm applications to be developed effectively, alongside applying the existing s.7 irreplaceable habitat policy.
- Difficult decisions would need to be taken in relation to the *current* pipeline of windfarm applications. In order to properly apply planning policy in relation to peatlands many of these projects would need to be re-sited or re-designed. Based on current planning processes, this would require developers in some cases to completely withdraw their applications and resubmit revised ones and may mean entire sites should not come forward – taking a significant amount of time; however, many are not at an advanced stage. There would clearly be significant opposition to this from developers and it may be politically untenable. There may be options for supporting developers who have applications already in the pipeline to make the necessary changes to their projects whilst

minimising the impact on delivery timelines, but we have not been able to explore this in detail with colleagues in Planning Division.

If it is not possible to identify a solution which allows us to retain the current policy and apply it in the spirit intended, there are two broad options:

- Policy remains in place but is not applied in practice.
- Consider options with Planning Division to revise policy (this necessarily means a revision to the entire s.7 irreplaceable habitats policy, not just in relation to peatland)

Both options contain significant reputational and outcome-based risks.

Annex 1– Assessment of the Issues and Background Information:

Introduction:

Planning Policy Wales was updated in October 2023:

1a) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and habitats and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.

1b) Proposals in statutory designated sites are, as a matter of principle, unacceptable and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances.

Irreplaceable habitats are defined as those habitats, including the natural resources which underpin them, which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. Examples include, ancient woodland and veteran trees, ancient hedgerows, wet woodlands, sand dunes, peatland, species rich grassland, long undisturbed soils, blanket bog, salt marsh and lowland fen.

This is not a peat specific policy. It is designed to promote beneficial habitat and natural resource outcomes through appropriate site selection and site design choices. Peat, however, has been the test case for this policy following the proliferation of wind farm applications coming forward.

Peat fits the definition due to its finite and fragile nature; growing at 1mm per year; acts as a hydrologically connected ecosystem; is unique; rare and impracticable to recreate once excavated or built on.

The developments coming forward are wider than wind turbines alone; a proportion of the sites are described as energy parks and include solar PV arrays and battery storage.

The policy applies to all habitats described as irreplaceable. Removal of peat references is not thought practicable due to the nature of the definition and wider impact on peat by other non-renewable developers, and on other habitats and biodiversity policy.

Planning Applications:

Officials estimate c.22 wind farms have been built on peat to date.

There are a further 35 wind farm applications with peat impacts in the planning system.

Peat covers c.4% of the land area yet is under significant pressure from renewable projects. Officials believe there is significant scope for alternative siting choices.

The issue was raised to the then Minister for Climate Change as a matter of national concern due to the number and scale of wind farm applications coming forward on peat. The accepted advice confirmed:

- The Department for Climate Change expects all wind farm development proposals to avoid the use of deep peat, and the shallow peat soils supporting the hydrological functioning of deep peat bodies;
- Should wind farm energy proposals on such soils come to the attention of the Department for Climate Change, the Department will object to their loss in accordance with the provisions in Future Wales and Planning Policy Wales unless other significant material considerations outweigh the need to protect such land; and,
- Write to Local Planning Authorities restating the weight to be given to protecting peatlands and the Department's position in this matter (NOTE – not issued due to changes made to Planning Policy Wales, as detailed below).

Peatland habitats form several Section 7 habitats which are regarded as irreplaceable within Planning Policy Wales. Once the underlying peat soil profile and peatland vegetation is removed, the ecosystem cannot be re-created. Development on peat destroys the fundamental biophysical template of the peatland ecosystem and once developed, its return to a peatland soil or habitat is impracticable.

Planning Policy Development & Guidance:

Following the declaration of a nature Emergency in Wales, COP15 and the Biodiversity Deep Dive recommendations, Planning Policy Wales was tightened up to support a set of actions to protect and effectively manage some of our most precious habitats, including peatland.

Additional guidance has been developed and is with the Cabinet Secretary for Planning. The DFM was briefed on this on 23-08-2024 and further noted the advice from Planning Division. The guidance seeks to apply policy as intended. It has not been issued.

Environment Act:

The Environment (Wales) Act 2016 places the Section 6 duty requiring that public authorities must seek to maintain and enhance biodiversity in the exercise of their functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.

Section 7 (1) requires that the Welsh Ministers must prepare and publish a list of the living organisms and types of habitat which in their opinion are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

Peatland habitats form a key component of this list.

S7 habitats are derived from the UK Biodiversity Action Plan which together with our protected sites represent the areas of highest nature conservation importance in Wales. Whilst all protected sites are protected by law in the UK and Wales, development has been able to take place on or near them (depending on the strength of their designation) provided that appropriate mitigation is in place to protect the features for which they were designated, however this is rarely completely successful and the sites get damaged or in some extreme cases lost, where there is a proven overriding public interest or lack of alternatives. In response to the Nature Emergency, Planning Policy Wales was strengthened to make development in statutory designated sites unacceptable, as a matter of principle, in all but wholly exceptional circumstances.

As described above, S7 habitats are afforded some protection through the Environment (Wales) Act S6 duty on all public authorities and also from agricultural improvement by the EIA Agriculture Regulations (Wales). Again, in response to the Nature Emergency and the continued loss of S7 habitat the above principle was extended to those sites containing protected species and habitats which are irreplaceable and must be safeguarded.

Whilst some S7 habitats are re-creatable, most are not, and some cannot be re-created at all. These are termed irreplaceable habitats and include ancient woodland and veteran trees, ancient hedgerows, wet woodlands, sand dunes, peatland, species rich grassland, long undisturbed soils, blanket bog, salt marsh and lowland fen. Irreplaceable habitats require centuries and millennia to form. Often, these habitats have been degraded, but provided that the soil (e.g. peat) and other essential factors are still in place, including ideally remnants of the unique plant communities (and seed bank) once present, they are capable of restoration. Once the soils have been damaged or lost, these habitats and the species associated with them will be lost forever.

Sect 7 (3) states the Welsh Ministers must:

- (a) take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, and
- (b) encourage others to take such steps.

The approach to irreplaceable habitats should be viewed through these requirements.

The unpublished guidance note directly relates Planning Policy Wales to the Section 7 habitat list.

Strategic Policy:

The Net Zero target, Biodiversity Deep Dive and Climate Change Adaptation Strategy all commitment Welsh Government to restore 45,000ha of peatland habitat from a total

of 90,000ha by 2050. This represents 50% of the total peatland area with an aim of reducing emissions from peatland by at least 38%.

Legacy Issues & Site Selection:

It creates a particular issue for 'legacy' windfarm developments which were originally scoped prior to 2015 on which developers continue to have options to develop. This predates the changes to Planning Policy Wales and the Environment Act. A number of these legacy applications are making their way through the system and are situated on peat.

Site selection is the fundamental issue, to accommodate both objectives. There are examples of Developers avoiding peat through site selection and site design.

Decisions to Date:

PEDW do not recognise peat and peat habitats as irreplaceable despite representations from Welsh Government peat officials and NRW specialists. Planning Policy has therefore not been applied by PEDW.

The Ministerial 3-decisions to date have contradicted PEDW stating peat and peat habitats are in fact irreplaceable. However, the Decision in effect determined renewable energy as a wholly exceptional form of development. This means the planning policies protecting peat habitats and soil are no longer effective, whether irreplaceable or not.

The balance struck through these decisions will now set the precedent for how all the subsequent windfarm applications in similar circumstances are considered.

As described in the introduction, peat habitats and soil are the thin end of the wedge. This sets the precedent for all Section 7 habitats, irreplaceable habitats, SSSI features and natural resources such as Best and Most Versatile agricultural land.

We are concerned that the renewable sector may now consider habitat and peat policy provisions as irrelevant given that developments approved to date have been determined to be wholly exceptional. We believe the sector views this determination to apply to all renewable developments.

Should the initial decision have been found in favour of protecting irreplaceable habitats, this would have pushed the sector to reshape their proposals to avoid peat and peat habitat impacts.

PEDW will soon have discretion to decide schemes <50MW and given above, risks policy being further disregarded.

Any appeal cases heard by PEDW follow the same risk as above.

PEDW and Ministerial decisions will filter through to Local Planning Authority decisions risk policy application at all levels and for all development types in the planning system.

Peat Implications:

From 35 wind farms currently in the planning system, it is estimated that between 10 and 15 years of the National Peatland Action Programme emissions saving will be lost. Should all applications be consented, under either scenario, Wales will not be able to deliver the peatlands contribution to Net Zero.

Once development is consented, the principle of development is accepted. It makes permission to repower wind farms more likely. Repowering of consented schemes along with those in the planning system would result in the potential trebling of peat losses and damage.

In habitat terms, >300ha is estimated to have been lost from consented schemes with a further 300ha to be lost through those applications in the planning system. Given the level and permanence in infrastructure a further >1,800ha is estimated to degrade further through construction and changes in hydrology. The fragmentation of habitat is likely to exacerbate ecosystem decline. Repowering requires new infrastructure and will double direct and indirect losses and damage. Schemes applied for and consented would likely offset the first 4 years of the National Peatland Action Programme habitat gains. These habitat figures do not include other non-peaty Section 7 habitats, so habitat loss is likely to be much higher.

NRW:

NRW has been unable to consistently engage developers in the early stages of the planning process when scheme changes can be most effective to avoid peat. NRW's engagement has been inconsistent across its regional operational and planning teams leading to poor, inconsistent or no advice.

Funding has been provided through the National Peatland Action Programme for NRW to recruit a specialist peatland planning case officer. This has been held up for 18 months due to the case for change process. Officials expect recruitment to begin in April subject to no further delays.

Wind farm Cases on Peat:

Extraction / Compression Volumes	Number of cases	Categorisation
0m ³	10	No Loss
<5,000m ³	10	Minor Loss
5,000 to 20,000m ³	8	Moderate Loss
>20,000m ³	15	Significant Loss
Unknow Impact	2	Unknow Impact
Consented Operational	22	On peat of Evidence Score >2
Total	57/67 Wind Farms with Peat Impacts	