Consultation: Modernising Environmental Permitting

CPA Response to Modernising Environmental Permitting

Thank you for the opportunity to respond to this consultation. Whilst we understand you particularly hope for responses from those who will be affected by the proposals; we think it is essential that you also hear the community view.

We are very supportive of aspirations to deliver cleaner power, improved air quality and less polluted waterways. We appreciate the focus on supporting innovation in emerging technologies and we hope this will include nature-based solutions. We also welcome the aim to deliver more efficient and effective regulation, whilst recognising that cutting bureaucracy must not result in increased risk of harm.

Flexibility and ease for businesses should not replace the focus on public and environmental protection. We are extremely concerned about the cumulative impact of the government's multiple changes to policy and regulations that could result in more ecological and environmental harms, fewer safeguards for public health and social wellbeing, ultimately undermining the safety of the public and bird/wildlife species. This does not appear to have been considered in any of the consultations to date.

We agree that having up to date standards is essential, but proportionate regulation should not increase the potential impacts, which could increase costs to the NHS and other public sector bodies. It should be noted that gaps in standards also affect citizens, yet there appear to be no proposals to enable their concerns to be more easily reported and dealt with.

In addition to the responsibilities you mention, regulators must have teeth! They must be able to challenge and address inappropriate use of, or compliance with, the regulatory framework, with the ability to issue fines and other penalties (such as refusing future permits to organisations that have committed the worst violations). Information about all such incidents should be publicly available. Regulators should also be adequately funded to enable deployment of sufficient competent, suitably skilled and experienced staff, capable of meeting the expectations set out in the consultation. They must also be resourced to monitor the outcomes caused by any changes to the regulatory approach. This should include, for example, monitoring that decarbonisation is actually being achieved, that pollution has not risen and that industries, such as data centres or green hydrogen production, actually do present a lower pollution risk. They should have the means to take immediate action if the assumptions made in this consultation do not materialise.

Permitting has an important role to play in reassuring communities that new technologies, such as hydrogen, carbon capture and batteries, are not hazardous and that rollout is risk-free, rather than just rapid. We do not believe there should be any easing of environmental permit and licence requirements for the examples above, as communities have repeatedly expressed concerns about their safety and efficacy.

Whilst we are supportive of the 'reform goals', Goal 1 should also consider permitting for piloting (fully investigating the viability and risks of an exploratory initiative that has no obligation to proceed to full rollout), as well as for trialling new technologies (testing the implementation of a committed scheme). Whilst Goal 4 mentions that costs are recovered in line with the polluter pays principle, there should be more clarity about what happens if increasing flexibility, reducing bureaucracy and limiting regulation results in serious polluting or hazardous incidents. The costs to the public purse could be considerable, including compensation for individuals, NHS expenditure, legal fees, etc. The new approach should ensure there are no loopholes that result in increased air, noise, light, vibration, water or dust pollution, other environmental effects or other impacts to citizen/wildlife health.

In balancing commercial confidentiality with public access to information, there should be no compromise of the commitments agreed in the government's Civil Society Covenant[1]. The "*transparent reporting framework*" should ensure that the right of residents to be fully cognisant of the risks associated with industry located in their areas is delivered.

In relation to carbon capture activities, it should be noted that natural solutions (such as restoring our peat mosses) would require no regulation, would be much more affordable to implement and are proven technologies. The government's priorities should be refocused on what would be best for communities and the environment, rather than what would be preferred by businesses and their lobbyists.

Increased use of automation, digitisation and AI technology should result in the alleviation of many of the complexities and duplication that cause businesses and investors to complain. To deliver a level playing field, given the government is accelerating processes and making the regulatory system simpler and more effective, businesses must speed up their responsiveness too. A 4-year hiatus in meeting permit requirements and standards compliance is far too long. Any existing sites should already be working to best practice principles and should be able to comply within a 12-month period.

As you are aware, BESS developments are of significant concern to communities. In relation to the use of environmental permitting to manage the risks and impacts to public health and the environment of such sites, consideration must go beyond just the threat of fire. The regulations should:

- ensure that community safety is paramount (including, for example, that these schemes should not be sited within a certain distance of residential properties, nor should they be near to (or down wind of) schools or businesses, such as hospitality venues, that host large groups of people, that alarms/sirens must be installed to warn communities of incidents, and that detailed guidance is regularly issued to residents advising them of the action to take in the event of a fire – should they stay in, for example, and close their windows, or should they evacuate as quickly as possible).
- ensure that BESS are not built on land that could increase risks (such as peat moss)
- clarify how communities will be compensated if residents or businesses suffer from pollution (including noise), fire, toxic fumes and the subsequent water contamination.
- introduce specific requirements in relation to the impact of noise pollution on birds and wildlife.
- require evidence of need, to comply with the National Planning Policy Framework[2] (paragraph 32), the market signals showing the capacity that is now available on the grid[3] and the wait times for connection.
- ensure that all planning applications incorporate sufficient information about the risks associated with the development, in accordance with the Gunning Principles[4] (principle 2 requires that there is sufficient information to give 'intelligent consideration' to an issue)
- introduce a clear monitoring regime for all risks related to the scheme
- introduce principles similar to those set out in the Green Claims Code[5], to require that, for environmental or ecological assertions made in any document:

o claims must be truthful and accurate

o claims must be clear and unambiguous

o claims must not omit or hide important relevant information

o comparisons must be fair and meaningful

o claims must consider the full life cycle of the product or service [a BESS, for example]

- claims must be substantiated.

In terms of better alignment between planning and environmental permitting systems, any permits should be a required planning document, submitted with the planning application to ensure all issues are resolved before planning permission is given. This could be in the form of an interim permit, which would convert to an authorised permit once the application is approved.

In relation to pollution, it is clear, given the figures you are quoting in the consultation document and those available in other evidence, that there is an obvious need for more responsiveness to resolve local air quality issues. The overall aim of the permitting regime to prevent significant pollution and protect public health and the environment cannot be achieved without robust action, which we believe goes much further than better alignment between the LAQM and the environmental permitting regime. There may be a need, for example, for more local monitoring to be put in place to ensure rapid action from the EA where regulated facilities exceed air quality objectives or standards. Other pollutants should also be considered, including noise, light, vibration, dust and water pollution, which all have a significant effect on humans, wildlife and the environment.

Earlier engagement between the EA and local authorities about the potential pollution impact from proposed permitted activities would be welcomed but there should also be a requirement for engagement with local communities, to both provide information and receive feedback. It should be noted that many local authority staff may not live in the area of the site, so community input is essential.

We hope this response is helpful and look forward to more information about how you will simplify and accelerate the process whilst protecting the environment and human health and introduce community engagement from the earliest stage.

Kind regards

Marj Powner

Vice Chair, Community Planning Alliance

About the Community Planning Alliance

The Community Planning Alliance is a national umbrella group for over 700 communities, all are campaigning against inappropriate development in their areas, and all disagree that decisions are being made in the 'public interest'. We have extensive knowledge and experience of the planning system, and our aims include seeking increased community participation, better environmental protections and the right homes and infrastructure in the right places.

[1] https://www.gov.uk/government/publications/civil-society-covenant/civil-society-covenant

[2] National Planning Policy Framework

[3] https://www.energy-storage.news/uk-reaches-over-120gwh-of-approved-grid-scale-battery-storage-projects/

[4] https://www.local.gov.uk/sites/default/files/documents/The%20Gunning%20Principles.pdf

[5] https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims/environmental-claims-on-goods-and-services