

Planning: Legal expertise from WJM



Law for your life
Law for your business



ClientCentric Service

Wright, Johnston & Mackenzie LLP



Planning can make or break a project

Planning delays and legal challenges lead to frustration, additional expense and can threaten viability. That's when having an expert Planning team on your side can pay dividends.



WJM's Planning team gives you that expertise. We have extensive experience in helping clients achieve their planning aims; often starting with initial, strategic pre-application advice, then working with clients through their development's planning process and, if necessary, going to Appeal and/or Judicial Review.

Our experience covers many sectors, including housing and industrial, and we have a particular focus on, and expertise in, renewable energy. All advice is provided with a sound understanding of your objectives and an eye to the commercial realities of development.

The Scottish planning system is currently in a period of significant change. By closely monitoring

anticipated developments, assessing their impact and giving you pro-active advice, we can help you stay several steps ahead.

Why WJM?

The WJM team has a thorough understanding of planning issues. Coupling this with their excellent advocacy and negotiation skills gives you a formidable team when presenting

your case at an Inquiry or negotiating with a local authority.

In addition to our broad planning experience, we've developed a special expertise in the planning issues around renewable energy developments – wind, hydro, biomass, solar – and the environmental issues surrounding them. Here we've worked with individuals, communities, local authorities and developers to help them bring their generation on-stream.



ClientCentric Service

Our renewables experience includes:

- Acting for developers in planning inquiries into large wind farm developments across Scotland, including:
 - Appeals for two wind farms in the Ochils which were dealt with at a large multi-party Inquiry.
 - Two Appeals in Aberdeenshire, the most recent under the new Appeals system.
 - A wind farm Appeal in Caithness.
 - An Appeal against the refusal of consent for an innovative wind energy project involving a unique hydrogen balancing facility.
 - An application under s.36 of the Electricity Act 1989 for a proposed wind farm development in the Scottish Borders.
 - A 14 wind turbine wind farm Appeal in Perthshire.
- Successfully negotiating a radar mitigation solution for a large utility company.
- Advising a number of developers of various wind farms from small sub-20MW schemes up to larger s.36 schemes, in Scotland and England, on planning conditions, radar mitigation, planning policy and the Environmental Impact Assessment (EIA) process.
- Advising developers of a proposed Hydro scheme on Habitat Regulation issues.
- Due diligence on planning issues for a clean energy fund on their options over a number of wind farms in England.



Not just renewables, our wider planning experience includes:

- Acting in numerous Judicial Reviews.
- Acting in an Inquiry into a proposed Flood Prevention scheme.
- Advising on community benefit issues.
- Acting for waste management companies in Appeals against refusal of Pollution Prevention and Control (PPC) permits for waste oil facilities.
- Providing planning advice for one of the two final bidders for the Forth Bridge Project.
- Compulsory Purchase Order Inquiry work.
- Advising on issues arising out of the adoption of a Core Paths plan.



Where can we help?

We assist clients, both large and small, throughout the entire planning process. For developers, our help will typically cover:

- On a broad scale, from a local authority development planning perspective: keeping you informed of forthcoming consultations and developments, then helping you prepare responses to proposed local development plans and supplementary planning guidance.
- Strategic pre-application advice to identify obstacles and provide solutions, saving you time and money.
- In larger developments requiring EIAs: advising on the requirements of the Regulations, and conducting a legal review of your Environmental Statement (ES).
- At Application stage: carrying out a pre-application audit to identify omissions and errors so that the chance of a successful application is improved.
- If your development is approved subject to a s.75 planning agreement or planning conditions, we can help draft and negotiate them.
- If planning is refused, we can advise on Appeal options: either through an Application for Review by a Local Review Body, or by way of Appeal to Scottish Ministers. We can also conduct the Appeal, including appearing at Inquiry.
- If you need to go further, we'll help you go through the Judicial Review process.
- If you are subject to enforcement action, we can help. We have experience in successfully conducting Enforcement Notice appeals.

WJM's Planning Team

Fraser Gillies leads the WJM Planning team. He is supported by dedicated planning solicitor Melanie Kane along with other team members on a case-by-case basis.



Fraser Gillies
Partner
fzg@wjm.co.uk
Tel: 0131 225 5660

Fraser advises on a wide range of planning matters covering industrial, commercial and residential developments.

Previous work includes advising on:

- Compulsory Purchase Order issues.
- Advising a local authority on Certificates of Appropriate Alternative Development.
- Advising on forthcoming development plans.
- Preparing consultation responses and planning objections.
- Advising on enforcement issues.

- Acting in Appeals to Scottish Ministers, Statutory Appeals and Judicial Reviews.

He has considerable experience in the renewables sector. He has acted in several wind farm Appeals, recently securing a planning consent on Appeal under the new Appeals regulations. He advises on proposals at pre-application stage and on s.36 applications.

Fraser has conducted reviews of Environmental Statements and provided pre-application advice to a variety of wind farm proposals on:

- The application of the Conservation (Natural Habitats, &c.) Regulations 1994.
- Consenting procedures under s.36 of the Electricity Act 1989.
- The requirements of the EIA process and the content of Environmental Statements.
- Pre-application reviews and strategic planning advice.
- Planning agreements.
- Planning conditions, in particular suspensive conditions in relation to aviation issues.



Melanie Kane
Planning Solicitor
mk@wjm.co.uk
Tel: 0131 225 5660

Melanie advises on planning and environmental matters. In addition to working in renewables, she has acted for retailers, housing developers and local authorities. Her experience includes:

- Providing advice in appeals against refusal of PPC permits.
- Acting for an objector to a Compulsory Purchase Order.
- Drafting planning objections.
- Drafting s.75 agreements.

- Acting for a wind farm developer in a refusal of a planning application for 14 wind turbines which was called in by Scottish Ministers.

- Providing pre-application advice to wind farm developers, including reviewing site proposals and Environmental Statements against planning policies.

- Providing planning advice for the re-development of Waverley Steps and the associated Transport and Works Order – the first development involving such an Order in Scotland.
- Acting for a local authority in an appeal against refusal for an energy-from-waste plant.

WJM's dedicated Planning team has the experience, industry knowledge and commercial acumen to ensure that your interests are properly represented, to maximise the value of your investment and to successfully manage the inherent development risks. **WJM – a place of practical advice**

Kintail House, Beechwood
Park, Inverness IV2 3BW
Tel: 01463 732554
Fax: 01463 732501

18 Charlotte Square
Edinburgh EH2 4DF
Tel: 0131 225 5660
Fax: 0131 225 8713

302 St Vincent Street
Glasgow G2 5RZ
Tel: 0141 248 3434
Fax: 0141 221 1226

www.wjm.co.uk

© Wright, Johnston & Mackenzie LLP, 2011.
A limited liability partnership registered in Scotland, number SO 300336.
Registered office: 302 St Vincent Street, Glasgow, G2 5RZ.

The information contained in this leaflet is for general guidance only and represents our understanding of the relevant law and practice as at July 2011. Wright, Johnston & Mackenzie LLP cannot be held responsible for any action, or failure to act, taken in reliance upon the contents. Specific advice should be taken on any individual matter. Transmissions to and from our email system and calls to or from our offices may be monitored and/or recorded for regulatory purposes. Authorised and regulated by the Financial Services Authority.

Wright, Johnston & Mackenzie LLP
WJM