



**DAVIDSON
& ROBERTSON**
RURAL SURVEYORS & CONSULTANTS

Winter
Bulletin

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Rural insights from our teams across Scotland & Northern England

D&R becomes NFU Scotland Utilities & Infrastructure Affinity Partner

Martin Kennedy, President NFU Scotland with Ian Austin, D&R Director.

D&R launch new utilities & infrastructure helpline for NFUS members

Through our Affinity Partnership with NFU Scotland, we'll be supporting NFUS members when statutory undertakers like Scottish Power, Scottish Water, or Network Rail need to do work on their land.

We'll help members understand their rights and what can be claimed for and support them in making that claim so that they're properly compensated, usually without any cost to themselves as the Statutory Undertaker covers our fees.

Rhianna Montgomery, NFU Scotland Rural Business Policy Advisor said

"We are seeing a growing number of concerns amongst our membership about utilities and infrastructure projects impacting their land and businesses. These have a significant effect on farmers' business through the need for access by the statutory undertakers, damage to crops and property, and ultimately time spent addressing all of these issues.

Davidson & Robertson will provide valuable expertise in utilities and infrastructure claims through their helpline, providing 15 minutes of free advice to all members."



Ian Austin, D&R Director, and Head of Utilities said "D&R have extensive experience in handling utilities and infrastructure claims, and we're delighted to extend that support to NFUS members through our helpline."

Members can call, or email to receive 15 minutes of free advice from our expert team to discuss issues and outline the next steps.

Helpline 0131 609 9717
nfusutilities@dr rural.co.uk

5 ways green energy could make more money from your land



Cashing in on telecoms



Onshore wind deal implications



Adding value to your business

f in @ www.drrural.co.uk

5 ways green energy could make more money from your land

The move to green energy will impact almost all farmers, even those whose land isn't suited to turbines or solar panels. The National Planning Framework 4 (NPF4) sets out guidance resulting in a general assumption in favour of planning being granted for the renewable developments that result in more green energy production which will significantly increase our current baseline.

This vast increase in demand for green energy will necessitate an overhaul of existing electrical infrastructure and the addition of swathes of new infrastructure to both produce and transmit this volume of green electricity. So vast is this target, that the National Grid commented, "Over five times the amount of new electricity transmission infrastructure will need to be delivered in the next seven years than has been built in the past 30 years". With this level of development both in production and transmission, landowners, tenants, and their businesses will inevitably be impacted by the works – but with this comes massive opportunities for new income streams.

D&R has many years of experience in dealing with such projects, and we have highlighted 5 ways farmers can financially benefit from the Scottish push for greener energy and crucially, how to do it without incurring costs. These include renewable energy, energy storage, grid connections, access agreements, and electrical infrastructure, and we will cover these and how to make them work to your benefit, in our seminar "5 ways green energy could make more money from your land (and it's not just about turbines)".

1. Renewable Energy – By 2030 Scotland aims to generate 50% of its energy consumption from renewable energy, so there is a pressing need for more sites to house solar panels, wind turbines, and electric vehicle charging points. These pose a massive opportunity to create an income stream by working with developers. Land that is underutilised can be repurposed for housing renewables, and in some cases, the land can both house renewables and still be used for grazing, making existing landholdings work much harder in delivering revenue for the business without a need for the landowner or tenant to carry the costs of

installation. Renewable Energy opportunities can be on a micro farm level e.g. solar panels on shed roofs or macro scale with large renewable developers building out large Mega Watt schemes.

2. Energy Storage – An amnesty by the Distribution Network Operator, means grid capacity has been freed up for development of battery energy storage systems. Even those who have previously investigated this potentially lucrative option and were told that there wasn't capacity available for their site, might now have viability. However, it's important to call out that this is a limited opportunity and interested parties will have to act fast to be able to exploit it. Due diligence is still important when choosing a developer so expert advice is important, and support is available to match prospects to a developer.

3. Grid connections – Wind turbine (onshore and offshore) and solar panel developers need to link their kit to the grid. These grid connections could impact multiple landholders as the connections travel across their land, which creates an opportunity for commercial incentives for granting the necessary rights over your land. A word of caution as there are also threats of compulsory purchase order powers being implemented, so support at an early stage from D&R will help you to effectively navigate this and maximise this potential income stream.

4. Access Agreements – Even if your land isn't suited to turbines, it may still be impacted as they are transported to site. Technology has advanced massively to produce turbines that can produce more energy more effectively, and this has meant that they are substantially larger as a result. This can pose a significant challenge in transporting them to site, and can mean that developers require access, even to

**Authors: Ian Austin, Director,
Stuart Lobb, Associate Director,
Alasdair Allan, Associate**



very small proportions of properties along the access route. Access produces rent and compensation, and in many instances, can prove to be a substantial income stream. Engagement with D&R at an early stage to support negotiations in your interest are essential to ensure you don't fall foul of pitfalls, safeguard your existing business and maximise returns.

5. Electrical Infrastructure – The huge increase in demand for green energy means that existing electrical infrastructure needs to be upgraded and new onshore connections built. The impact of this for farmers' land and businesses is less about making money, and more about maximising value, mitigating loss, protection from short term and long-term impacts, and ensuring appropriate compensation. Accessing sound advice around how to do this is critical. D&R have a wealth of experience in supporting clients through their claims to the statutory undertakers, and, (importantly for clients) we have no conflict of interest as we do not represent any of the utility providers unlike many other Surveying firms. In most cases, costs for this support will be met by the utility provider.

For all types of energy, negotiating terms on land requirements, extension of rights granted, along with return/ransom and non-exclusivity and termination agreements can add value to your property. Engaging with D&R for support in assessing options, accessing in-market developers, forming agreements, and making claims will ensure an optimal outcome for your business and could enhance its value.

**For more information contact
Utilities, Energy & Infrastructure
Team on 0131 449 6212.**

Know your rights - every claim is different

The huge amount of utility work planned will mean disruption for landowners and tenants. If a proposed project may affect your land, it is important to engage with your Agent at the outset to minimise the impact. Not everyone realises that the cost of engaging an agent is generally met by the utility company.

The main elements of a claim differ in every case; however, most claims usually include the following :

- **Loss of land use** – e.g., loss of grazing/crops
- **Disturbance** – e.g., disruption to fieldwork, lack of access and temporary fencing issues
- **Reinstatement** – e.g., reseeding, repair to gates and fences
- **Client time** – often overlooked so keep a record of time spent on or around the project.

Our breadth of experience means we know the potential issues and understand the true going rate clients are likely to be paid. The best opportunity for landowners and tenants to negotiate better terms on these matters is at the outset of the project, before signing any paperwork. Are you likely to be affected by any utility or infrastructure projects now, or in the future?



Sarah Bennett

**For more information contact
Sarah Bennett, Associate on
01556 512 148.**

Pipeline and pylons – A case study of utility claims for long-running projects



NFUS member Mr Robert Barr, from East Kinleith Farm, Currie engaged D&R to support the business during a Scottish Water project to install a new pipeline through their farm.

“D&R has a lot of experience with this kind of project. Acting as our Agents, we see their role as making it all as painless as possible so we can live through the work and come out the other side no worse off. D&R sort issues for us so we can get on with the day job of running the farm.”

The main issues faced have been damage to and loss of crops, poor reinstatement of both land and drainage, loss of yield from crops in subsequent years, and disturbance of the farming practice.

The disturbance was significant, with a great deal of additional work including more time checking stock due to temporary fences, travelling further for crops stored away from the steading, sorting stock after contractors left gates open, organising temporary water supplies to livestock, pulling contractors vehicles out when they get stuck in fields and many conversations with contractors and project managers regarding access. Throughout the whole process, the D&R team has negotiated and managed claims.

Robert Barr said “It’s a very long process and we still have ongoing issues, so we rely on D&R to sort those out for us. We’ve had poor reinstatement in some of our grass fields, and in one, there are lots of small sharp stones which pose a

risk to cattle hooves. We still have to put in an annual claim for loss of crop due to poorer yields in the area they dug up. It’s quite obviously a thinner crop and there are still some drainage issues too. These types of negotiations are new to us, but D&R deals with very similar issues with other farmers so they know the most effective way of dealing with them.

“We’ve only just got the use of our ‘stack yard’ back after providing the hardcore materials to reinstate the yard. D&R negotiated an agreement with Scottish Water so they would pay the costs and that was agreed before the reinstatement work.

“The process has been ongoing for a long time so we’re very glad we can leave the messy stuff to D&R. They’re professional and anticipate the pitfalls and problems as well as negotiating for us. Ian Austin and his team look after us very well, and we have no hesitation in using them for future work – which will be sooner than we thought because Scottish Power Energy Networks (SPEN) have notified us of upgrade works to the pylon route that runs through the farm. From our experience, we know that getting D&R involved at the start will save us time, and hassle and help us recoup loss of income.”

**For more information contact
Utilities, Energy & Infrastructure
Team on 0131 449 6212.**

Cashing in on existing telecom agreements

| Author: Abi Wass,
Land Agent

Telecom masts on your land are an asset which should be managed to maximise your benefits from them. We have seen many examples where agreements have not been reviewed and income not accounted for, so we are urging landowners to reacquaint themselves with the lease terms. It may identify missed payments, highlight opportunities for future income and address issues:

- Once leases are signed, landowners may have only received the initial rental payment.
- Rents may not have been paid for several years.
- No uplift/rent review has taken place.
- Ensure maintenance responsibilities are carried out.
- Negotiate on upgrade work outside of 'allowable' lease terms.
- Negotiate on lease renewal.
- If the lease renewal terms are not favourable, it may be time to review alternative land use and there may be a right to "lift and shift" making a telecoms operator relocate their plant and equipment. The old code included these clauses and many more, so it is important to ensure that matters of "lift and shift" and other clauses are included within new code agreements.
- A final alternative may be to look at selling the freehold



Abi Wass

or long leasehold rights to an investor, thereby passing over the obligations to deal with the operator to the investor. Considering the lower rents being achieved within the New Code Lease agreements, this approach may release a lump sum capital payment rather than a reduced annual rent over say a 10-year period. We are seeing more investors approaching landowners with the view of acquiring masts, to package several masts into larger portfolio assets, however, this should be undertaken with caution.

D&R's specialist telecoms team can negotiate terms for existing site leases, new site leases or sales, to ensure you achieve the best terms available in the market and in line with current legislation.

**For more information contact
Abi Wass, Land Agent on
01900 268 633.**



Battery Energy Storage Systems (BESS) – amnesty means demand for sites is high

There has been an amnesty for developers wishing to cancel or reduce their grid capacity applications for grid connection projects that have stalled. It means grid capacity has become more readily available, leading to increased demand from developers for suitable sites – and more approaches to landlords and tenants.

BESS storage sites remain a profitable and safe option to consider. Those with potentially suitable land should not be put off by concerns about the well-publicised risks of possible combustion and contamination.

Undertaking due diligence of the developer will establish if they have the appropriate expertise and financial capability, and those that are, will have scoped possible sites for planning, grid connection, fire distances etc; however robust negotiations from a specialist advisor at the outset will ensure landowners are suitably covered and de-risked.

At Davidson & Roberston, we engage with well capitalised developers with a deep knowledge bank of how to deliver energy projects; the days of sharp practice by the small and single ownership operators are ending, but landowners should still exercise caution when approached. Seeking expert advice and engaging legal representation to negotiate and draft the commercial rents and terms are still crucial to protecting landowners throughout the lifecycle of the project.



Stuart Lobb

**For more information contact
Stuart Lobb, Associate Director
on 0131 449 6212.**

The Onshore Wind Sector Deal for Scotland – the impact on farming communities

Author: Derek Bathgate, Director, Head of Regions

The Onshore Wind Sector Deal for Scotland is a deal between the Scottish Government and the onshore wind sector (developers and stakeholders). It sets out the ambition for the next phase of Scotland's onshore wind development, to achieve the ScotGov ambition of 20GW of installed capacity by 2030. It's a big deal and split into 6 elements, which are summarised below:

- 1. Skills, supply chain, and the circular economy.** The aim is to increase this sector's work force skills and maximise the reuse of materials and minimise waste in the supply chains. This represents an opportunity for those who live and work in the countryside to upskill and benefit financially.
- 2. Community.** This envisages collaboration with local communities throughout all stages of projects' life cycles. The community package includes energy efficiency improvement, solar PV panels, low carbon heating in homes and installation of electric vehicle charging infrastructure in communities near wind farms. D&R is well placed to negotiate commercial terms for EV charge points in rural areas and we are currently providing this service to a number of clients.
- 3. Land use and environment.** Onshore wind developers will pay landowners/occupiers for implementing plans that enhance biodiversity, e.g., peatland management, compensatory planting (of trees), creation of species-rich habitats, and they don't have to be on the land that hosts turbines. D&R's Natural Capital and Forestry teams are well placed to advise on such matters.
- 4. Planning.** The aim is to cut planning approval to within 12 months, or 24 months if there is a public inquiry. If this is achieved, it will enable more onshore wind farms to be built in a shorter period, presenting more opportunities for landowners/occupiers. Our Renewables team has a wealth of experience negotiating commercial terms.
- 5. Legislation & regulations.** Changes to legal processes will support the strategy to deliver significant investment. It will be interesting to see tangible outcomes of this component and how it will impact land rights. This element lacks detail, but we will continue to monitor its progress and how it may affect our clients.



- 6. Technical.** This aims to unlock onshore wind restrictions within the zone of the Eskdalemuir Seismic Array (around 10% of Scotland) and extends into Northern England. A potential game changer for landowners/occupiers in southern Scotland and possibly in Northern England who previously had onshore wind development proposals refused. Landowners who have been affected by Eskdalemuir may wish to reappraise previously denied development proposals.

It's important to seek professional advice at the earliest stage when working with onshore wind farm developers and utility companies.

For more information contact
Derek Bathgate on 01292 265 851.

Conflict and friction – the move to arbitration

Author: Martin Hall, Senior Director

There is a strong push for change in how rural disputes are handled. Historically the disputes were most common between landlords and tenants. Today, the balance of conflicts has changed and there are now a growing number of issues as a result of the numerous infrastructure and energy projects in progress and in the pipeline.

Whether the issue is disagreement over rent reviews or an infrastructure issue, courts are costly and take a long time (can be an 18-month lead), so momentum is growing for alternative options like expert determination, mediation, and arbitration. D&R has

many years of expertise in arbitration and conflict resolution.

The Scottish government is pushing the move to arbitration as a mechanism to release the pressure - it's more cost-effective and quicker than court and they recently supported a 'Mock Arbitration' event for professionals.

In his role as Vice President of the Central Association of Agricultural Valuers, Martin Hall, D&R Senior Director, was the appointed Arbitrator. Martin said "Conflict and friction often arises because of the differing objectives for Project managers/Engineers and those that work the



land. Engineers run projects and are focused on drivers like budget and timeline, but they don't really understand landowners and occupiers who look at the long-term nature of holding and managing land. Are you facing a dispute and need advice?

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