Spheres of public conversation: Experiences in strategic environmental assessment

Barbara Illsley [a,*], Tony Jackson [a], Neil Deasley [b]

[a] School of the Environment, University of Dundee, Dundee DD1 1HN, Scotland, UK
[b] Scottish Environment Protection Agency, Strathearn House, Lamberkine Drive, Perth PH1 1RX, UK

ABSTRACT

This paper draws on earlier research, a national review of Scottish SEA practice and a survey of practitioners and stakeholders engaged in SEA and spatial planning in one Scottish city-region, to explore claims being made in the academic literature for Strategic Environmental Assessment (SEA) as a tool for deliberative plan-making. We consider whether there is evidence that Scottish SEA practice is helping create more inclusive plan-making processes in light of recent legislative changes, thereby fulfilling one of the expectations of Scottish Government. The macro analysis found that although there are opportunities for stakeholders to engage in the Scottish SEA process the level in practice is extremely low, a finding which mirrors experience in England and elsewhere. The more detailed micro analysis reveals a more nuanced picture within the spatial planning system, however, suggesting the existence of two distinct spheres of public conversations, one characterised by active dialogue about the environmental effects of alternative strategies amongst public sector stakeholders and the other involving non-governmental stakeholders and community groups in a much more limited way. The paper concludes with a discussion of possible explanations for this outcome, concerning asymmetric incentive structures and the application of power, and a consideration of the implications in relation to the competing discourses of SEA.

© 2013 Elsevier Inc. All rights reserved.

1. Introduction

A decade after the European Union Directive on the Environmental Assessment of Certain Plans and Programmes (SEA Directive) (CEC, 2001) came into force, debate about the theoretical rationale for SEA and the way in which the technique is used in decision-making continues (Bina et al, 2011; Bonifazi et al, 2011; Jiliberto, 2011). On the one hand SEA is viewed as a tool of rational decision-making which is applied in a structured and rigorous way in order to produce more environmentally sustainable outcomes, while on the other hand it is considered to be a facet of deliberative policy making which acknowledges the existence of different value systems and facilitates communication, negotiation and joint learning amongst stakeholders.

The United Kingdom's (UK's) planning jurisdictions have pursued alternative routes in implementing the SEA Directive (Jackson and Illsley, 2006). The UK Government confined the application of SEA in England to statutory plans and programmes that set the framework for future development consents, requiring this process to be integrated with a sustainability appraisal (SA) encompassing socio-economic as well as environmental factors. By contrast, the Scottish Government exercised its devolved powers to pass the Environmental Assessment (Scotland) Act 2005 (SEA Act) (Scottish Parliament, 2005), which explicitly focuses

on environmental impacts and extends the application of SEA to virtually all voluntary as well as statutory Scottish public sector plans, policies and strategies (PPSs) (Scottish Executive, 2004: Section 1.8) which have significant environmental effects. Reflecting on the Scottish approach to SEA in 2007, Jackson and Illsley argued that this preserved useful aspects of the rational decision-making model of environmental assessment, while exploiting the technique's potential for promoting deliberative decision-making on environmental policy and, as a result, the Scottish approach has the potential to mediate the competing interpretations of the purposes of SEA (Jackson and Illsley, 2007).

Five years after the SEA Act was implemented in Scotland, a detailed review of the performance of the SEA legislation has been published (Scottish Environment Protection Agency [SEPA], 2011). The Scottish SEA review, undertaken by Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland and supported by Scottish Government, investigated and assessed Scottish SEA activity, identifying that between July 2004 and December 2010 a total of 555 PPSs in Scotland had undergone at least one stage of SEA. While the two main objectives of the review were to assess whether SEA achieves effective environmental protection and improvement by influencing plans and strategies and to identify ways of the SEA process more efficient, the research also offers a chance to consider the extent to which SEA practice in Scotland is helping create more deliberative plan-making processes.

In this paper we examine this aspect of SEA in Scotland through analysis of the findings of both the SEA review (2011) and a more detailed survey of the experience of a small sample of SEA stakeholders

* Corresponding author. Tel.: +44 1382 385243; fax: +44 1382 388588.
E-mail addresses: b.m.illsley@dundee.ac.uk (B. Illsley), a.a.jackson@dundee.ac.uk (T. Jackson), neil.deasley@sepa.org.uk (N. Deasley).

involved in PPSs attributable to Town and Country Planning legislation. We focus on this category of PPSs because the most recent annual reports for the Scottish Parliament on the application of the SEA legislation (Natural Scotland, 2012) indicate that almost half of SEA activity falls within this field. Furthermore, the Planning etc. Scotland Act (Planning Act), 2006 (Scottish Parliament, 2006) has introduced a modernised system of spatial planning, running parallel with the developments in Scottish SEA, which has as one of its objectives the aim of making it easier for communities and public to get involved in shaping the future of their areas. The Planning Act has directed attention to the issue of stakeholder engagement in the planning process, identifying a need to consider the extent to which the new arrangements, including those relating to SEA, are making a difference in practice.

In Section 2 we briefly review debates concerning deliberative policy making and identify the key characteristics of deliberative processes. Section 3 discusses the macro view of stakeholder engagement in SEA revealed by the Scottish review, comparing the findings with experiences from other jurisdictions. Section 4 covers the more detailed fieldwork and considers the role of different stakeholders in shaping the approach and content of plans through their engagement with SEA. The analysis of responses reveals two distinct sets of SEA conversations: one consisting of public agencies and the other embracing the wider community. In Section 5 we explore possible explanations for our findings, with Section 6 offering our overall conclusions.

2. Deliberative policy processes

There are competing discourses on how techniques such as SEA should be used in decision-making. The first supports a technical-rationalist methodology, in which appraisers apply the objective techniques of instrumental rationality to determine the most efficient way of delivering objectives determined by policy-makers exercising substantive rationality in making value judgements (Weber, 1947). The classic example of the practical application of this distinction can be found in cost–benefit analysis. Its techniques rely on instrumental rationality to establish which alternatives would generate efficient outcomes: aggregate improvements in social welfare. Policy-makers then make the final decision by using a social welfare function that applies their substantively-rational preferences to the instrumentally-rational alternatives identified.

A considerable body of research, however, has questioned whether the techniques applied in practice by appraisers and assessors enable them to make a meaningful distinction between instrumental and substantive rationality. When examining decision-making within a Danish planning authority, Flyvbjerg (1998) uncovered complex patterns of power relationships that did not conform to rationalist Weberian modes of behaviour. Researchers who examined the application of official guidance on policy-level assessment in the European Union identified "competing realities and blurred boundaries between science and policy, facts and norms", providing "evidence on the gap between the 'rational' conceptualisation of assessment and the 'messy reality' of everyday policy making" (Hertin et al, 2009: 1198). Owens et al (2004: 1946) found that appraisal techniques used in the UK's planning system often amounted to little more than "post-demonstration of pre-conceived judgements", with "ethical and political choices masquerading as technical judgements reinforcing prevailing norms and existing structures of power".

The alternative post-modernist discourse addresses these problems by favouring a deliberative model of public policy making which involves professionals and the public "making sense together" (Forester, 1989: 120). Fearon defines a deliberative process as "a process allowing a group of actors to receive and exchange information, to critically examine an issue, and to come to an agreement which will inform decision making" (Fearon, 1998: 45). While the characteristics of deliberative processes have been the subject of some debate, three main principles stand out, namely inclusivity, reasoned dialogue, and the search for common ground (Hartz-Karp, 2007; Holmes and Scoones, 2000). An inclusive process is one in which interested stakeholders have the chance to participate and where the wider public have confidence that their interests are being represented (Bloomfield et al, 1998). Inclusion implies openness in terms of access to the processes, reflecting different interests and values, as well as the expectation that there will be opportunities to present views and to have those views taken into account. The second principle, reasoned dialogue, assumes discussion and debate about different options where the participants are prepared to take the views of others on board and to moderate their own positions. Paterson describes this as "a willingness to be persuaded, to have one's pre-formed preferences transformed in the face of a better argument, and thus to set aside strategic concerns and behaviour in the pursuit of those preferences" (Parkinson, 2003: 181). The third principle is concerned with the outcomes of deliberative processes. Much of the early literature talked of seeking consensus but more recent work has shifted the focus to the search for the common ground in the debate where agreement can be reached, recognising issues of pluralism within society. Judicious argument and critical listening are both needed in order to reach agreed solutions (Gastil, 2000) with individuals likely to be motivated to engage by issues of accountability, diversity and the possible consequences (Ryfe, 2005). The extent of the influence of the outcomes of deliberation on policy remains an area of contention, however. Some suggest that deliberative processes are incomplete if they fail to have an impact (Gaventa, 2004) while others highlight the value that the public attach to the fairness of the process irrespective of the outcome (Gastil, 2000).

The ideal of deliberative policy making thus assumes the adoption of a collaborative stance to participation, which goes beyond simply providing information about the process or consulting on proposals, and involves the creation of spaces or arenas, open to all, where stakeholders can come together to discuss and negotiate alternatives and reach preferred solutions (Healey, 2006; IAP2, 2012). Hendriks (2009:176) argues that a deliberative system should be understood "not so much as a spectrum of discrete venues but as a discursive space composed of overlapping spheres of public conversation".

SEA has been viewed in the literature as a tool that supports and enhances deliberative policy making through explicit recognition of the role of different values in the assessment of PPSs, assuming that it is applied in decision-making process that are transparent and subject to public scrutiny (Richardson, 2005; Connelly and Richardson, 2005). SEA practitioners are cast as mediators in the ensuing negotiations, with the potential to act as 'boundary spanners' (Williams, 2002) between different stakeholder interests. Flyvbjerg (2012) argues that public policy researchers can use the mass media to promote greater transparency in outcomes drawing on the power of the web and social media to enhance collaborative pressures. By inference the statutory requirements contained within the SEA Act provide material to this end.

Government bodies whose plans are subject to SEA face public examination of their capacity to meet not only their own environmental ambitions but also the environmental aspirations of wider society. According to Jiliberto (2011: 137) viewed in this way SEA "helps to improve legitimacy of strategic decisions and broadens the range of actors participating; it promotes a strategic view in recognising society's environmental values; and it helps improve the quality and accountability of their decisions". Such assertions have particular resonance in a Scottish context in light of the fact that promoting more open government was one of the three roles identified for SEA in the SEA Act (Scottish Executive, 2004, Section 1.3) and they provide the backdrop to the analysis of Scottish SEA practice in this paper which aims to assess whether SEA is contributing to more inclusive, deliberative and influential plan-making processes.

3. Macro level analysis — SEA review

The SEA Directive requires public consultation on plans and programmes subject to SEA, with consultees given an "early and effective opportunity" to express their opinion (CEC, 2001: Article 6).