



Clerk to the Local Government & Communities Committee  
Office Room T3.60  
Scottish Parliament  
Edinburgh, EH99 1SP

07 February 2018

Dear Sir or Madam,

**Call for Evidence on the Planning (Scotland) Bill: view of Scottish Renewables**

Scottish Renewables is the representative body for the renewable energy sector in Scotland, working to grow a sustainable industry which delivers secure supplies of low-carbon, clean energy for heat, power and transport at the lowest possible cost. We represent around 280 organisations ranging from large energy suppliers, operators and manufacturers to small developers, installers and community groups, and companies throughout the supply chain.

Scottish Renewables welcomes aspects of the Planning (Scotland) Bill, but is concerned that some of the proposals contained in it would have unintended consequences for the renewables sector and, as a result, the Scottish Government's climate change targets. Scottish Renewables is of the view that renewable energy should be given a greater degree of focus than is currently the case in the Bill.

The Scottish Government, with cross-party support, has set world-leading targets for renewable energy generation and emissions reduction. These ambitions are challenging and require a joined-up approach within government if they are to be achieved.

Scottish Renewables' members provide the engine that realises the Scottish political consensus on climate change and renewable energy leadership. At the same time, with the increasing pressure on cost reduction and the erosion of most forms of revenue support for renewables, the need for the Scottish Government to do everything in its power to make renewable energy investment as competitive as possible is greater than ever.

Creating and sustaining a fair and robust planning system is critical to ensuring that well-sited, responsibly developed projects continue to contribute towards achieving sustainable and inclusive growth across Scotland, as well as to our energy and climate change targets.

If you have any questions on the comments set out in this response, please contact Peter Speirs, Public Affairs Manager on [pspeirs@scottishrenewables.com](mailto:pspeirs@scottishrenewables.com) or 0141 353 4985.

Yours sincerely,

Jenny Hogan

**Deputy Chief Executive**

## Response to Committee Questions on the Bill

1. **Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?**
  - 1.1. Whilst this Bill has many positive provisions, it appears that it was drafted with insufficient consideration given to the Scottish Government's recently published Energy Strategy, Onshore Wind Policy Statement, draft Climate Change Plan and both the existing Climate Change (Scotland) Act 2009 and forthcoming Climate Change Bill. It is our hope that scrutiny of the Bill will be focused not just on housing policy, but on enabling the Scottish Government to deliver the challenging targets that all major parties support as well as the Scottish Government's National Outcomes.
  - 1.2. The recently published Energy Strategy outlines the Scottish Government's energy transition plan out to 2050, setting a new 'all energy' renewables target to deliver the equivalent of half of Scotland's heat, transport and electricity needs from renewable sources by 2030, along with a clear message of ongoing support for existing renewable energy technologies. We welcome the level of ambition contained within the Energy Strategy, but believe that some of the proposals contained in this Bill could undermine this target.
  - 1.3. We would expect to see more alignment with the policies set out in the draft Climate Change Plan, Energy Strategy, Onshore Wind Policy Statement, and in Scotland's Energy Efficiency Programme (SEEP) consultation document on 'Local Heat & Energy Efficiency Strategies (LHEES), and Regulation of District and Communal Heating'. These refer to a number of planning changes that are not referenced as part of the wider review. For example, the consultation on heat regulation proposes establishing district heating zones which will need to be considered alongside local plan policies. Those scrutinising the Bill should regard renewable energy as an issue of the same degree of importance and relevance to the Bill as housing.
2. **To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?**
  - 2.1. We have no comment to make on this point.
3. **Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?**

- 3.1. Overall, Scottish Renewables is supportive of the proposed ending of Strategic Development Plans. However, the detail on how proposals for regional partnerships would work in practice and how this would be resourced will be of the utmost importance. It would be desirable for secondary legislation to provide a clear steer for regional planners towards the Scottish Government's national priorities.
  - 3.2. In relation to the appeals and local review system, a greater degree of realism is required regarding the designation of renewable energy developments between 'major' and 'local' projects. The requirement for an Environmental Impact Assessment (EIA) broadly relates to the scale of the development, but also takes into consideration the sensitivity of the environment in which the development is proposed. For most development types, the thresholds for becoming a 'major' development generally accord with the guideline thresholds set out in Schedule 2 of the EIA regulations for EIA screening (determining whether an EIA is necessary) with the exception of wind farms.
  - 3.3. If an EIA is required then, in many cases, the developer's application costs will increase from a relatively small amount to several hundred thousand pounds. The requirement for an EIA would, therefore, seem to be a logical test for whether an application is 'major' or 'local'. In most cases, the Bill or secondary legislation could therefore be amended to state that a development that requires an EIA cannot be regarded as 'local' and, therefore, appeals cannot be determined by the local authority. This would ensure that significant energy developments are considered with the appropriate regard for their broader significance to Scotland's strategic goals.
- 4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?**
- 4.1. We welcome the proposal to strengthen links between the development plan and community planning. It is important that any guidance on community and spatial planning must adhere to policies set out in the National Planning Framework (NPF) and Scottish Planning Policy (SPP). We look forward to engaging in the process on developing future guidance.
  - 4.2. Scottish Renewables is comfortable with the provision to increase the length of time between reviews of Local Development Plans (LDPs) provided the increased intervals of review have regular reviews built into them. It must be borne in mind that the renewables industry – and indeed the energy realm as a whole - is one of the most innovative and dynamic areas of our economy. The rapid pace and scale of change in the past decade, which was largely unanticipated, is likely to accelerate more quickly and to an even greater degree

in the next. It is a concern that the provisions of the NPF and the LDP's 10 year review cycles could be overtaken by the rate of change in the energy sector. It would therefore be desirable for provision to be made for interim amendments to the NPF and LDP when appropriate, and for those amendments to be subject to consultation and scrutiny.

**5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?**

5.1. Whilst Simplified Development Zones (SDZs) do not appear on the surface to apply to most renewable energy developments, they present an opportunity for the enhancement of the Scottish Government's decarbonisation plans. The Local Heat and Energy Efficiency Strategies will outline ambitious plans for low carbon heat projects in Scotland. SDZs with a clear steer towards heat could help catalyse district heating networks and other innovative solutions to the heat challenges set out in the Energy Strategy.

**6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?**

6.1. Community engagement is an important aspect of the development process and sharing advice and knowledge of real experiences is an excellent way of improving practice across Scotland. However, as highlighted by the independent review, the experience of neighbourhood planning in England and Wales, created under the Localism Act 2011, has been mixed. More than half of the draft plans published for consultation (55%) have been described as having 'protectionist' agendas and being openly anti-development.<sup>1</sup> We are concerned that this could cause unnecessary delay and act as a barrier to development.

6.2. We are supportive of communities being involved in the planning system and inputting into proposals for their local area, however we are concerned that communities may not have the resources, skills and knowledge to prepare local place plans which can be translated into viable development options. We would therefore welcome further clarity on the role of the local place plan, the level of scrutiny that would be applied, and the availability of resources and skills to develop these plans at a local level.

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<sup>1</sup> [www.turley.co.uk/sites/default/files/uploads/news/Turley\\_%20Neighbourhood%20Planning\\_March\\_2014.pdf](http://www.turley.co.uk/sites/default/files/uploads/news/Turley_%20Neighbourhood%20Planning_March_2014.pdf).

**8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?**

8.1. It is Scottish Renewables' understanding that the primary target of the Levy is housebuilding developments. As most renewables projects are self-enabling, there should be little impact on renewables projects. We believe that the intentions of the Levy should be made more explicit to avoid confusion.

8.2. In the case of onshore wind and solar PV, the introduction of an Infrastructure Levy could increase costs which would be at odds with the Scottish Government's focus on cost reduction and its challenge to the industry to develop the UK's first commercial wind farm without subsidy in Scotland. For all renewable energy technologies, keeping costs as low as possible is vital in order to ensure the competitiveness of the industry and safeguard the tens of thousands of jobs reliant both directly and indirectly on the renewables sector.

**9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?**

9.1. Scottish Renewables' members continue to express concern with the unpredictability and lack of scrutiny in the review process. Many of our members feel that Local Review Bodies (LRBs) are often ill-equipped to make decisions on renewable energy projects due to their technical nature and the level of complexity involved. Our concerns were echoed in the report from the independent panel preceding this Bill which highlighted ongoing and long-running concerns about inconsistency in LRBs' working practices and decision-making.

9.2. We would welcome training for any committee members or members taking part in Local Review Boards to increase the knowledge and skills base which would increase the quality of decision making. Some form of accreditation or membership to the Royal Town Planning Institute may be an appropriate route as part of training and may instil greater trust in their decision making. It is important that training for councillors is not focused on housing developments to the exclusion of other major infrastructure projects, not least renewable energy. It should be emphasised to local councillors that their decisions have a significant impact on Scotland's ability to achieve our renewable energy and climate change targets, which have cross-party backing, as well as the Scottish Government's National Outcomes.

**10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?**

- 10.1. The most recent annual statistics provided by the Scottish Government Environmental Appeals Division demonstrate that the success rate for delegated appeals is 49%, which implies that half of the initial determinations did not strike the correct planning balance.<sup>2</sup> This figure is largely consistent with that of previous years.
- 10.2. The renewables industry remains of the view that some planning decisions may be made largely for local political reasons, not least those involving onshore wind developments. There are also long-running concerns regarding the performance of some planning authorities. The provisions included in the Bill appear to strike the correct balance between maintaining a commitment to local decision-making and the need for co-ordinated national action to achieve our ambitious targets.

**11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish Government wants? If not, what needs to change?**

- 11.1. In the Onshore Wind Policy Statement, the Scottish Government recognised that, as “arrangements which have enabled onshore wind to expand and to reduce its costs so successfully are no longer in place,” a “supportive and well-resourced planning system” is necessary but insufficient to deliver the Scottish Government priority of “support[ing] a route to market for onshore wind.”<sup>3</sup> The Policy sets a challenge to industry to develop the UK’s first commercial wind farm without subsidy in Scotland.
- 11.2. As discussed above, any action which increases the cost of development for onshore wind will make meeting this challenge more difficult. We recognise that it is only reasonable that the costs of processing a planning application should be reflected in the fees paid by applicants. Planning fees have already been subjected to substantial increases in recent years. It remains unclear to developers what tangible benefits have been realised as a result of these fee rises. Further increases to existing fees and the levying of additional fees for services which are currently provided without charge must be accompanied by clear, measurable, and transparent improvements in planning service provision.
- 11.3. Scottish Renewables welcomes the Scottish Government’s commitment to reinvest any increase in revenue from the planning system back in to improving the planning system. It would be unacceptable for additional fees to be spent on anything other than improving the planning system in order to ensure decisions

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<sup>2</sup> <https://beta.gov.scot/publications/planning-and-environmental-review-2016-17/>

<sup>3</sup> <http://www.gov.scot/Resource/0052/00529536.pdf>

are taken as efficiently and effectively as possible and by trained planners. It may, therefore, be desirable for a consideration of the inclusion of a provision implementing a form of ring-fencing in the Bill or in secondary legislation in order to guarantee that increases in planning costs are met with a concomitant improvement in planning delivery.

## **12. Are there any other comments you would like to make about the Bill?**

- 12.1. Scottish Renewables is aware that there continues to be a vocal minority which advocates for the introduction of either a third party right of appeal, a so-called 'equalisation' of appeal rights, or even the abolition of any right of appeal of planning decisions.
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- 12.3. The question of third party rights of appeal was previously explored in great depth and rejected by the then Scottish Executive.<sup>4</sup> Alterations to the appeal process were also rejected by the People, Places, and Planning Review. It is our view that the case against the introduction of such an appeal right has strengthened in the intervening time. The generation of renewable energy and climate change mitigation is now of utmost importance to the Scottish Government. The cross-party support for robust targets on renewable energy and climate change included in the Climate Change (Scotland) Act 2009 and the Scottish Government Energy Strategy provides impetus for major renewables infrastructure projects.
- 12.4. Many of those who seek alterations to the planning process do so in good faith with the aim of addressing their concerns about the operation of the planning system. The position adopted in the Bill provides a superior alternative to any alteration to the appeals process for these interested parties. Frontloading community consultation obviates the need for intrusive amendments to the existing appeals process. These changes will provide an opportunity for local communities to help shape planning rules in their area.
- 12.5. Recent experience of countries considering third party rights of appeal indicate that its introduction would be of limited value and could lead to significant unintended consequences. The introduction of a third party right of appeal was considered during the progress of the Planning (Wales) Bill through the Welsh Assembly in 2015. After extensive consultation the proposed right of appeal was not enacted due to concerns over resource and time consumption within the planning system. The right of appeal in the Republic of Ireland does not apply to major infrastructure projects.
- 12.6. The frontloading of community engagement in the planning process will mean that local communities will be involved in the planning process from the outset. The alteration of the current appeals process will necessarily result in significant

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<sup>4</sup> <http://www.gov.scot/Publications/2004/04/19206/35611>

delays for major renewable energy projects. In some instances, this will mean that this will lead to many years of delays, and empower politically motivated individuals to make vexatious appeals rather than engage in the good faith frontloaded engagement processes contained in this Bill. This would likely result in the already extremely challenging renewables and climate change targets becoming inordinately difficult to meet.

- 12.7. The Committee on Climate Change recently reported that renewable energy capacity in the UK will need to double by 2030 if we are to meet our binding climate change targets. It is clear that, to achieve this, we will need to continue to develop and repower onshore wind sites at the lowest possible cost. It is therefore essential that the application process is streamlined wherever possible; taking into account the sites' existing uses as highlighted in SPP and using all relevant existing information from the previous/existing developments to inform planning decisions for new developments. With this in mind, we believe that the environmental baseline should reflect the environmental conditions at the time of the repowering application and not the baseline conditions of the original wind farm applications submission.
- 12.8. In addition, Scottish Renewables believes that a strong signal should be given to all those involved in the planning process that planning forms a key driver of renewables targets delivery. Given the high level of importance invested in tackling climate change and securing strong and inclusive economic growth, provision should be made for the explicit inclusion of a recognition that planning policy should have regard to and seek, wherever practicable, to implement the Scottish Government's National Outcomes and Energy Strategy. This would act to emphasise the significance of renewable energy projects to Scotland.