

Planning and Architecture
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Dear Sir/Madam

Scottish Planning Policy and Housing: Technical Consultation on Proposed Policy Amendments

Scottish Renewables is the voice of Scotland's renewable energy industry, working to grow the sector and sustain its position at the forefront of the global clean energy industry. We represent around 260 organisations working across the full range of renewable energy technologies in Scotland and around the world, from large suppliers, operators and manufacturers to small developers, installers and community groups, and companies right across the supply chain.

Scottish Renewables and its members are extremely concerned by the proposal in the Scottish Government's consultation to remove the presumption in favour of development that contributes to sustainable development in Scottish Planning Policy (SPP). The existing planning policy frameworks for renewable energy technologies, including the National Planning Framework (NPF) and SPP, are now significantly out of date and must be materially enhanced (rather than diluted) to reflect the Climate Emergency, enable the scale of deployment required to meet Scotland's climate change commitments and achieve net-zero by 2045.

We welcome the Chief Planner letter of 4 September 2020 clarifying that, pending the outcome of the consultation, the existing policies in SPP remain in place and that "none of the changes proposed in the consultation aim to undermine or contradict Ministers' stated commitments to delivering good quality development, including... renewable energy projects".

However, whether intended or not, our view is that the changes proposed in the consultation would undermine and contradict Ministers' stated commitments to addressing the Climate Emergency. While the consultation purports to focus on housing, the proposal to remove the presumption has implications for all types of development including renewable energy, whether

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proceeding under the Town and Country Planning (Scotland) Act 1997 or other legislation, including the Electricity Act 1989.

Additionally, if implemented, this policy will compromise the Scottish Government's ability to deliver a green recovery to the COVID-19 pandemic and could have negative impacts on economic growth and job creation.

The presumption is an important signal of the priority which should be given to sustainable development, and it seems a wholly retrograde step to consider its removal from SPP. If the presumption is removed that will be read as a diminished commitment by the Scottish Ministers to achieving the Outcomes set out in SPP and to fulfilling the objective that "the planning system contributes effectively to increasing sustainable economic growth" declared in paragraph 9, as well as contradicting subsequent commitments by the Scottish Ministers to addressing the Climate Emergency.

If you have any questions on the comments set out in this response, please do not hesitate to get in touch.

Yours sincerely

Stephanie Conesa
Policy Manager - Development, Planning & Onshore Wind

Consultation Questions

Question 1: What is your view on our proposal to remove ‘the presumption’ from the SPP, through the changes set out?

In the absence of any proposal to immediately replace the presumption with a supportive policy of equal if not greater force for renewables, we consider this proposal a regressive step for Scotland and the renewable energy industry and therefore are opposed to it.

In the Scottish Programme for Government (PfG) in September 2019, the First Minister stated that planning policy would undergo a “fundamental review”, headlining the need for planning policy to “more radically reduce emissions”. She highlighted that “the global climate emergency means that the time is right for wide ranging debate on more radical planning policy options”.

Scottish Renewables agrees that the Scottish Government’s commitment to a 75% cut in emissions by 2030 and net-zero by 2045 requires substantial changes to current planning policy. We also agree that more radical planning policy options to allow a more positive and supportive approach to the wide-scale deployment of renewable energy technologies, and onshore wind in particular, will be needed.

Scottish Renewables and its members have engaged fully with the Scottish Government’s planning reform agenda, including providing detailed submissions to the Scottish Government’s Call for Ideas to support the forthcoming NPF4. Our Position Statement on NPF4 sets out that:

- NPF4 must make clear that renewable energy developments are both “in the long-term public interest”, in line with the purpose of planning set out in the Planning (Scotland) Act 2019, and constitute sustainable development as they assist in achieving the 2030 and 2045 net-zero targets.
- NPF4 must make clear that achieving the 2030 target (and ultimately the 2045 target) requires significantly increased renewable energy generation.
- NPF4 should reiterate that there is a presumption in favour of renewable energy to deliver sustainable development.
- The wording of the presumption in favour of sustainable development in the current SPP should be simplified within NPF4 and should express policy support for sustainable development that contributes to climate change objectives.
- All decision makers should explicitly engage with this presumption and be required to demonstrate how it has been applied in decision making.

While the publication of NPF4 has been delayed, the urgent need to address the global climate emergency remains. The Scottish Government should therefore be taking early action to support the wide-scale deployment of renewable energy rather than undermining such sustainable development with the removal of the presumption in its favour contained in the current SPP.

Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5-year effective housing land supply to reflect the currently exceptional market circumstances?

Contrary to the assertion in paragraph 7 of the consultation document, our view is that there is no necessary “potential for conflict” between the presumption and the plan-led approach. The consultation refers to the recent decision of the Inner House in *Gladman Developments Ltd v The Scottish Ministers* ([2020] CSIH 28) which considered the presumption purely in a housing context. The court interpreted the approach to the presumption in a way which reconciles the plan-led system and the presumption. SPP already makes clear at para 32 that, irrespective of the presumption in favour of sustainable development, the starting point for decision-making remains the development plan. Therefore, Scotland still has a plan-led system, but the system has always allowed for the possibility that material considerations, such as the presumption in favour of sustainable development, could outweigh the plan. It is our view that the consultation paper is based on a misunderstanding of the Court decision.

Fundamentally the consultation is a proposal driven by a housing issue. For housing alone, there is a requirement for a five-year supply of housing land. The judgement in *Gladman* should not be used to justify a major change across multiple developments types such as onshore wind, where there are no similar specific targets.

Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?

N/A

Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.

No. While the consultation focuses on housing, the presumption in favour of sustainable development in SPP is not specific to housing. It is therefore self-evident that the proposal to remove the presumption will have implications for all types of development including renewable energy, whether proceeding under the Town and Country Planning (Scotland) Act 1997 or other legislation, including the Electricity Act 1989.

In addition to the comments set out above, Scottish Renewables believes that:

- Fundamentally this consultation is a proposal driven by a housing issue and should not be applied across multiple types developments, including renewable energy.
- If implemented, this policy will seriously undermine the Scottish Government's efforts to deliver a green recovery to the COVID-19 pandemic and could negatively impact on economic growth and job creation.
- It is unclear whether the Scottish Government's Local Government and Communities Directorate has considered the wider implications of the policy change on Scotland's environment and ability to meet our net-zero targets. No impact assessment appears to have been undertaken (see Question 5 below).
- The proposed changes represent a significant risk to the renewables sector as they could damage the prospects of success for renewables projects in the planning system under the 1997 Act and the Electricity Act.
- The emphasis in the consultation is on maintaining the plan-led system and development plan primacy under section 25 of the 1997 Act. However, that section does not apply to projects proceeding under the Electricity Act, such as onshore wind farms greater than 50MW. Therefore, there is no conflict to resolve between the presumption and a plan-led system for such projects.
- Despite the terms of the Chief Planner's letter of 4 September 2020, with no transition or grace period for applications already in the planning system and no replacement policy of equal or greater force in favour of renewables, Planning Authorities are now able to refer to this consultation and the Scottish Government's intention to remove the presumption and afford the presumption minimal weight by treating the consultation as a material consideration.

What needs to happen next:

- Once the consultation is complete the Scottish Government should either retain the presumption in favour of sustainability in SPP or, if it is changed, a replacement for the presumption with equal if not greater weighting must be put in place at once to ensure

there is no adverse impact on the Scottish Government's policy to encourage the further deployment of renewables, and onshore wind in particular, pending the publication of NPF4.

Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.

No, Scottish Renewables believes a proper impact assessment is required. The Scottish Government does not appear to have considered the implications of these proposals for types of development/sectors other than housing.