

# Energy UK response to the Scottish Local Government and Communities Committee's Call for Evidence on the Planning (Scotland) Bill

1<sup>st</sup> February 2018

## About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership covers over 90% of both UK power generation and the energy supply market for UK homes. We represent the diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

## Executive Summary

Energy UK and our members welcome the opportunity to respond to this Call for Evidence from the Scottish Parliament's Local Government and Communities Committee. We welcome many of proposals within the Planning (Scotland) Bill, and believe that it strikes a good balance between empowering communities, protecting the environment and facilitating development in the energy sector.

Whilst it is understandable to focus the Bill on enabling further housing developments, this mustn't be to the detriment of understanding the ongoing importance of the needs for infrastructure and industry, with regards to planning policy. We would encourage the Committee to consider the Scottish Government's Scottish Energy Strategy in their analysis of the Planning (Scotland) Bill. This is particularly important given the Scottish Government's ambitious climate change targets. It is therefore essential that the Planning (Scotland) Bill is finalised in a form that supports the objectives of the Scottish Government's Climate Change Plan and Scottish Energy Strategy. Facilitating the further development of low carbon and renewable technologies will be key to delivering these objectives.

For more detail about the questions posed within the consultation document please refer to the responses submitted by our members. Should you have any questions regarding this consultation response then please do not hesitate to get in touch via the details below.

I can confirm that this response may be published on the Scottish Parliament's website.

Yours sincerely,

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## Response to Questions

### **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?**

Energy UK and our members largely welcome the proposed changes to Scotland's planning policy, which are robust and will support sustained infrastructure investment in Scotland. We would, however, urge greater alignment between this Bill and Scotland's climate change ambitions as reflected in the recent Scottish Energy Strategy. The full realisation of Scotland's climate change targets are predicated upon a revised planning system which supports the objectives of both the Scottish Energy Strategy and Climate Change Plan. At present, the Scottish Energy Strategy does not appear to be fully reflected in the policies outlined within the Planning (Scotland) Bill. Whilst accepting that housing should be a priority sector for planning purposes, we are concerned that this Bill is too narrowly focused on the housing sector. The narrow focus to this Bill may result in a planning system that does not adequately support other important development types such as low carbon and renewable infrastructure; a particular concern considering the Scottish Government's ambition for 50% of energy to be sourced from renewables by 2050.

Scotland should continue to build on the great strides taken in deploying a wide range of renewable energy sources. It is undoubtedly a world leader in the deployment of onshore wind with more than half of the UK's onshore wind capacity situated in Scotland, pumped, micro and large-scale hydro plant as well as several offshore wind sites in development. Furthermore, we recognise the size of Scotland's renewable electricity generation that is now equivalent to approximately 53.8% of Scotland's electricity consumption. Given the Scottish Government's ambition and support for further renewable generation in Scotland, there must be a planning regime in Scotland which can act as an enabler to further developments of this kind. We believe that the Bill as drafted would largely deliver a planning regime of this kind that effectively balances the rights of communities with encouragement of investment and development in low carbon technologies across Scotland.

Energy UK and our members support the proposal to demote the status of Supplementary Guidance (SG) so that it no longer has full local plan status in decision-making; this has been a key issue for onshore wind with planning authorities appending landscape capacity studies to SG and placing significant weight on these during decision-making.

The industry is anticipating a review of the National Planning Framework (NPF) commencing later this year however we do not see this reflected within the Planning (Scotland) Bill. The Bill's proposals to subsume the Strategic Development Plans (SDP) into the NPF will provide benefits in streamlining policy however Energy UK and our members urge caution to avoid losing anything valuable from the SDP in that process. We look forward to responding to the NPF consultation later in 2018 to support this important reform in greater detail.

### **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?**

It is important that the Bill doesn't focus too heavily on the delivery of housing and thus lose sight of other important development types, such as key energy infrastructure in the form of overhead lines, substations and underground cables. The delivery of this type of key infrastructure is vital to the sustainable delivery of housing, amongst many other developments, and the Bill should take care to allow for these industries to support one another.

### **3. Do the proposals in 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?**

Energy UK and our members believe that with the NPF taking on an enhanced status, it will need to be subject to appropriate consultation. We believe that if the NPF is reviewed on a 10-year cycle then

there will need to be provision to make interim amendments considering the rate of technological developments taking place in the energy sector.

For further detail please see our answer to question 1.

**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?**

We and our members are confident that the proposals in the Bill to the content and process for Local Development Plans (LDPs) will deliver the desired results. Our members welcome input from communities at the earliest possible stage in the development process. However, Energy UK and our members would discourage any proposals to increase community involvement beyond that already proposed and/or introduce third party rights of appeal. We consider that arguments in favour of introducing a third party right of appeal are more properly addressed by making existing processes work better and ensuring that the rights of the public to be involved in decisions affecting them are properly protected.

We support the proposals to remove the Main Issues Report and supplementary guidance. Supplementary guidance can create confusion, introducing conflicting priorities, and is not always subject to the same level of scrutiny as LDPs.

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

As mentioned, the Bill is too heavily focused on the development of housing so it is hard to envisage these policies impacting on energy infrastructure. In the Onshore Wind Policy Statement it is made clear that there should not be a spatial approach to energy infrastructure. We agree with this approach and believe that this principle should be reflected in the Planning Bill.

**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?**

Please see our earlier views on the third party right of appeal process and the need to strike a balance, which we believe that this Bill does. However, we would encourage cognoscence that whilst Local Place Plans (LPP) can benefit regions, areas with differing levels of expertise, resource and with varying capabilities could struggle to develop an LPP. Furthermore, LPPs need to be consistent with the Local Authority's Local Development Plan and reflect the national planning policy as set out in the NPF and Scottish Planning Policy (SPP). We would also note that third party right of appeal would not be aligned to wider ambitions to front-load the planning process; it would be better to see early engagement from communities.

We recommend that Strategic Development Zones (SDZs) are flexible enough to allow delivery of energy network infrastructure, particularly if the delivery of new homes or any other type of development are to be enabled. The ability to include conditions as part of a SDZ would assist in this respect.

There is a risk that SDZs could act as constraints to the siting of essential infrastructure. For this reason we are keen to understand how, and where, SDZs would be monitored and how adoption of such would be considered against existing development proposals. Consistent methods of recording such areas would be welcomed in order that these can be considered at an early stage of any development. Clarity on this and also the consultation process would be useful.

**7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?**

Energy UK and our members believe that the planning system should provide for the enforcement function and shouldn't rely upon developers funding the enforcement of their own developments. Considering the Scottish Government's position in the Onshore Wind Policy Statement it is worth noting that increased planning costs would have an adverse impact on developments – including onshore wind – looking to reduce their levelised cost of energy, impeding their route to market.

**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?**

As set out in an earlier Scottish Government consultation Energy UK and our members are supportive of the Scottish Government's intention to consider introducing an Infrastructure Levy based on the experience of the Community Infrastructure Levy (CIL) already operational in England and Wales. It would be sensible to consider the lessons learned from the operation of this existing scheme, when designing Scotland's own proposed Infrastructure Levy. It should be noted that HM Treasury is looking to simplify the English Levy, switching to flat-rate fees – in the interests of developing cohesive policies and avoiding over complication of the UK's planning system. We would encourage the Scottish Government to consider such an approach.

Whilst accepting that the Infrastructure Levy is at an early stage of development, we are keen to better understand how this will operate in practice and we look forward to working with the Scottish Government on these proposals through a detailed public consultation exercise.

We would appreciate greater clarity as to who the beneficiaries would be. As a key component of critical infrastructure we welcome the proposal that the sector could be a recipient of the levy. Given the importance of energy infrastructure, we do not believe that the energy industry should contribute to the levy. Not only would this be counterintuitive but it would also create an additional cost which would have an associated impact on customer's bills.

**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?**

Energy UK strongly supports this recommendation. Ensuring that local government councillors are appropriately trained is critical to providing a fit for purpose, transparent and effective planning system. We welcome the proposal that training for local government councillors be made compulsory and we agree with the recommendation that untrained councillors will be barred from working on planning decision making until trained.

However, there is a risk that following a local election there is a hiatus where there are no trained councillors – training needs to be timely so as to avoid any delay to planning decisions immediately following an election. Some councils may miss a cycle whilst their planning committee is appointed but this needs mitigating as much as possible. There also will not be an insignificant number of councillors needing training following elections and we would encourage cognoscence of the resource requirement of this. We would suggest that training should take place within 4 weeks of being elected, and that for consistency all local authorities should deliver the same training programme.

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

Energy UK and our members support this proposal in principle. In our response to the [People, Places and Planning](#) consultation we said that if the Scottish Government is intending to increase planning fees then developers will expect improvements to the performance of the current planning system; this is one way in which that improvement can be secured.

**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?**

In our view, it is important that the fees structure needs to be fit for purpose and should be consistent across all local authorities. There should be a reasonableness test as some authorities could structure their fees in such a way as to disincentivise developers coming forward with projects; Energy UK will be detailing our views on this issue in the forthcoming consultation. Fundamentally, fees have to be proportionate as fees increase we expect a corresponding improvement in service. One solution would be for the Scottish Government to set fees rather than each local authority so as to ensure that they are standardised and that there is greater certainty to developers.

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

Energy UK and our members welcome the recommendation to change the duration of planning permissions allowing a developer with a consent, limited to three years, to apply under Section 42 to extend this consent. The ability to vary the time limit condition was taken away in both England and Scotland because of concerns that it encouraged land banking by housing developers. However this is a challenge to energy developers who normally have to take a longer timescale on proposals.

Additionally given the significant opportunities presented by the repowering of onshore wind sites, it is essential that a supportive planning and policy framework is developed to ensure projects can progress efficiently. As repowering will result in a continuation of the same kind of project on the same site, we suggest that any application is considered as one which proposes an 'existing use' and therefore has a presumption in favour of consent. A repowering application would still require to be assessed on a range of environmental considerations, but the scope of work should be significantly reduced due to knowledge gained during assessments for the original site and data gathered during its operation. The scope should be discussed and agreed with relevant authorities and key stakeholders as early as possible to ensure that no work is duplicated and that only new, relevant information is developed. Government should set clear guidelines for these discussions to ensure a proportionate approach is taken.

We would suggest that consideration is given to how to streamline the process for repowering, to allow a timely and efficient transition between the old and new project, ensuring the opportunity for reusing any existing infrastructure is maximised. Statutory bodies have a key role ensuring a timely and efficient process is established for repowering projects and the following areas should be considered:

- A comparison of the new proposal against the existing site's original 'planning envelope'.
- Use of pre and post-construction monitoring to assess the impact of a new project.
- The scope of visual and landscape impact assessment required given the changes in turbine size and/or re-siting within the site.
- Opportunities to use existing grid connections and infrastructure where practical, and redesign for greater capacity where required.
- Reduced impact on aviation and radar and/or continued utilisation of existing mitigation techniques deployed for the original scheme.
- Use of existing noise conditions and obligations, where there is no history of complaints.
- Use of environmental and ecological information compiled for the original project application, construction and from post-construction monitoring as relevant base-line data for the new application.