

Citizen Participation and Public Petitions Committee

2nd Meeting, 2022 (Session 6), Wednesday 2
February 2022

PE1885: Make offering Community Shared
Ownership mandatory for all windfarm
development planning proposals

Note by the Clerk

Lodged	19 August 2021
Petitioner	Karen Murphy
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to make Community Shared Ownership a mandatory requirement to be offered as part of all planning proposals for windfarm development.
Webpage	https://petitions.parliament.scot/petitions/PE1885

Introduction

1. The Committee last considered this petition at its meeting on [6 October 2021](#). At that meeting, the Committee agreed to write to the Scottish Government and to Scottish Land Fund.
2. Scottish Land Fund indicated that Local Energy Scotland (LES) would be best placed to provide a view on this petition and its aims. The Committee subsequently wrote to LES seeking its views on this petition. It received a written submission from the Scottish Energy Saving Trust, part of LES.
3. A summary of past consideration of the petition and responses to information requests are provided for the Committee's consideration.

Background

4. During its consideration of this petition, the Committee received 5 written submissions.
5. The Scottish Government's initial submission states that electricity generation is a reserved matter under the Scotland Act 1998. As such the Scottish Parliament does not have the legal competence to change the law for a purpose relating to the regulation of the control of electricity generation.
6. It reports that its 2020 target to achieve an element of community shared ownership in at least half of newly consented renewable energy projects was met. 59% of all consented projects (10 out of 17) identified in 2020 offered an element of shared ownership.
7. In their initial submission, the petitioner suggested that increasingly, windfarm developers are immediately selling to Capital Investment firms and that without mandatory community shared ownership, offering this is seen as an added, and unnecessary, complication to the selling process. The petitioner believes this is resulting in offers for community shared ownership being withheld.
8. The petitioner suggests that powers to raise new land taxes on any transactions involving interests in land could raise a form of tax which would require all developers who don't own the land to offer 15% community shared ownership to locally impacted communities.

Scottish Government submission

9. Following consideration of the petition on 6 October, the Committee wrote to the Scottish Government to ask whether existing powers could be utilised to further encourage the growth of community shared ownership. In particular, the Committee asked whether the Scottish Government could use existing planning powers to provide incentives for developers to offer community shared ownership.
10. The Scottish Government's response highlights good practice guidance which indicates that planning authorities 'should not seek to secure shared ownership though the use of planning conditions or obligations.'
11. On the broader issue of offering community shared ownership, the submission notes the Scottish Government's wish to see energy developers consider offers as a matter of course. It states that to support this, the Scottish Government Community and Renewable Energy Scheme (CARES) provides support to both developers and communities to help navigate this process.

12. The Scottish Government recognises that not all communities will opt to take on ownership and highlights its revised Good Practice Principles for Community Benefits from Onshore Renewable Energy Development. The submission notes that in 2021 around £22m of community benefits were delivered to local communities.
13. The consideration of community benefit and weight in planning decisions is being explored through the development of the National Planning Framework 4 (NPF4), a draft of which will be laid and published for consultation in Autumn 2022. As part of this work, priority policy changes are being considered to support a spatial strategy for net-zero, including ‘strengthening our support for re-powering and expanding existing windfarms.’
14. The [Onshore Wind Policy Statement consultation](#) was launched in October 2021 and concluded this month. The consultation included consideration of the ambition set out through the Scottish Green Party Agreement for an additional 8-12GW of onshore wind by 2030. A final Onshore Wind Policy Statement will then be published in the summer of 2022 to coincide with NPF4.

Energy Saving Trust submission

15. The Committee wrote to Local Energy Scotland and received a response from the Energy Saving Trust (EST) which makes up part of the consortium. The Committee asked whether existing powers could be utilised to further encourage the growth of community shared ownership for onshore windfarms. It also asked whether Local Energy Scotland has suggestions for planning based policy that could provide incentives for developers to offer community shared ownership.
16. The response from Energy Saving Trust outlined, as in the Scottish Government response, that CSO isn’t currently a material consideration in determining whether or not a development is acceptable in planning terms.
17. When considering routes to make offering CSO mandatory, the submission notes a suggestion to utilise the UK Government’s Contracts for Difference scheme (CfD). The UK Government consulted on proposed amendments to the scheme and the Energy Saving Trust’s response noted that due to competitive Contracts for Difference bidding rounds, Community Shared Ownership opportunities could be threatened by bidders cutting costs to try and win Contracts for Difference contracts.
18. Energy Saving Trust recommend that Community Shared Ownership (as well as the community benefit fund) should be protected in the bidding process by making it mandatory. The submission states that a renewable energy business indicated that incentives would be preferable over penalties. Energy Saving Trust suggests that additional points in the Contracts for Difference evaluation process might be a way to achieve this. The submission notes that Energy

Saving Trust are awaiting further consultation on community benefits 'which should deal with this issue'.

19. The National Forest Estate in Scotland is highlighted as an example with obligations to offer CSO as part of its offering to renewable energy businesses. However, it is noted that some businesses are re-negotiating their CSO obligations and 'there is a risk that these obligations might be threatened.' It is stated that certain businesses don't believe that CSO will work for their projects and some have said they would only offer CSO in the future if it is mandatory.
20. The submission addresses the Scottish Government's Good Practice Principles, stating that it has been 'agreed widely by industry, but not always adopted in practice.' EST provide an example of this—

'we are aware of a recent CSO offer that strayed somewhat from the GPP [good practice principles], did not work for the community, and had to be rejected by the community. We are currently investigating why exactly CSO didn't work for this project.'

21. Progress with CSO is detailed in the submission and Energy Saving Trust make recommendations for moving forward –
 - Local Energy Scotland continues to monitor and report to Scottish Government annually on the level of CSO opportunities in newly consented projects.
 - Local Energy Scotland monitor and report to Scottish Government annually on the level of CSO opportunities being realised.
 - The Scottish Government should establish an online register of CSO opportunities and completions, similar to the existing CBF register.
 - The Scottish Government should reinforce the importance of adherence to the industry agreed GPP to ensure that CSO offers are likely to work. This could be done via refreshes to the Scottish Energy Strategy and any other appropriate interim policy statements, for example, the outcome of the current onshore wind policy statement consultation mentioned above.
 - The Scottish Government should determine whether there are ways and means other than through the planning system that CSO could be mandated in future if required.

Petitioner submission

22. The petitioner highlights that the Scottish Government did not meet its 1GW target for community-locally owned energy by 2020 and that to meet its new target of 2GW, 15% equity stakes of all the planned 8-12GW onshore windfarms will be required. She explains that—

'The EST response shows that the 2030 target will be missed; a) only 1 CSO completion at 5% of the developed capacity (well below what is required to meet the target), b) only 59% of developments offering CSO – given normal

offer failure rates, this means only 10-30% of these developments will actually result in CSO – failing to meet both of the SG’s [Scottish Government’s] targets’

23. It is noted in the submission that Kintyre Community has received 1 promise of CSO that meets the Scottish Government’s Good Practice Principles. This is out of 14 developments consented or in planning.
24. The petitioner raises a number of additional issues associated with Community Shared Ownership in her submission (a link to which is contained in the Annexe to this paper). This includes her view that some developers refuse to interact with the local community, some refuse to offer CSO and that others may make CSO offers that do not meet the definition of CSO as defined by the Scottish Government.
25. A number of recommendations are made by the petitioner to ensure the delivery of CSO, including—
 - Utilise the Scottish Government’s ability to raise new land taxes on any transactions and transfers involving interests in land to make a Financial Conduct Authority approved CSO offer in the windfarm development a minimum requirement for all developments which are not yet consented.
 - Create a new ‘tax’ that would require all developers who do not own the land to make a CSO offer that fully meets the criteria of the Good Practice Principles and offers a level playing field for all developers.
 - CSO offers should be limited to a % equity stake offer to enforce a lifetime offer with the community
 - Any new tax should mandate a minimum of 15% equity stake in order to achieve the Scottish Government’s target of 2GW by 2030
 - The petitioner notes that ‘since 2009 the Danish Renewable Energy Act has required all new wind projects have at least 20% local ownership,’ noting that ‘this has delivered very high community ownership levels’.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting –

- [PE1885/C: Scottish Government submission of 4 November 2021](#)
- [PE1885/D: Energy Saving Trust submission of 12 November 2021](#)
- [PE1885/E: Petitioner submission of 6 December 2021](#)

All written submissions received on the petition can be viewed on the [petition webpage](#).