

Citizen Participation and Public Petitions Committee

15th Meeting, 2023 (Session 6), Wednesday
25 October 2023

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

Lodged on	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 [8 February 2023](#). At that meeting, the Committee agreed to write to the Cabinet Secretary for Net Zero, Energy and Transport and the Scottish National Investment Bank.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received responses from the Scottish National Investment Bank, the Cabinet Secretary for Net Zero, Energy and Transport and the Petitioner which are included at **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 81 signatures have been received on this petition.

Action

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

Clerk to the Committee

Annexe A

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

Petitioner

Karen Murphy

Date lodged

19 August 2021

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.

Previous action

Residents of Kintyre and Knapdale have engaged with 6 Community Councils who have in turn been in contact with Argyll and Bute Council.

The Cabinet Secretary for Rural Affairs, Fergus Ewing has been approached and representation has also been made to Jenni Minto MSP regarding some of the companies who are refusing shared ownership asking her to email a particular company about their stance. It is understood she is arranging a meeting with Michael Matheson, Cabinet Secretary, to discuss this.

Background information

Currently, Community Shared Ownership is a recommendation of the revised Scottish Government 'Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments' (2019), but many opportunist developers do not offer shared ownership on agreements to offer fair and effective CSO opportunities to impacted communities.

Because of the unprecedented scale of windfarm development, a piecemeal approach to securing CSO is beyond the scope of small communities. Given that development is a national occurrence, a coherent political response is required which mandates that developers must offer and secure 15% CSO investment. Unless this is in place Government will fail local communities and will not achieve the target for Community and locally owned energy. Increasingly windfarm developers build windfarms to immediately sell them on to Capital Investment Firms, and, with no requirement to offer CSO, it is a seemingly added and unnecessary complication to their ability to sell, so offers are withheld. This is compounded by subsidies no longer being available.

Annexe B

Extract from Official Report of last consideration of PE1885 on 8 February 2023

The Convener: PE1885, which was lodged by Karen Murphy, calls 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 wind farm developments.

Following the committee's evidence session with the Minister for Public Finance, Planning and Community Wealth, we followed up with the minister and the Cabinet Secretary for Net Zero, Energy and Transport on a number of points. The minister stated in his recent submission that local place plans have no role in encouraging shared community ownership through planning systems due to existing restrictions. However, planning authorities may be able to direct renewable energy businesses towards information about any known community aspirations for CSO. The minister has stated again that the Scottish Government has no powers to mandate CSO and highlights existing support for communities that are considering CSO opportunities.

The petitioner's recent submission reiterates her suggestion that CSO could be mandated through raising a new tax, which would require all developers who do not own the lands to make a CSO offer in line with the good practice principles. An upcoming review of good practice principles has been highlighted by the cabinet secretary, who stated that a consultation on the draft guidance is planned for this year, and that the Scottish Government intends to build any relevant lessons from the petition into future updates to the equivalent guidance for onshore renewables.

In the light of that potential, there seems to be some progress. Do colleagues have any suggestions or comments on what we might do next?

Fergus Ewing: I have just a few observations. We last considered the petition on 29 June last year. Since then, in August, the petitioner made a further submission. The first point that I want to make is that, in that submission, the petitioner argues in some detail that the Scottish Government has power to mandate community ownership. I am not able to assess whether that view is correct or incorrect but, out of fairness and given that the petitioner has set out quite a lot of detail in the submission, we should at the very least put that to the Scottish Government. In other words, we should ask the Scottish Government whether it agrees with the petitioner's view and, if not, why not.

Secondly, in the letter that we sent after the previous evidence session—following suggestions that I think that I made—we asked whether the Scottish National Investment Bank, which after all exists to serve the purpose of promoting green schemes, might produce a tranche of funding that could be made available for communities. In the response that we have from the minister, he says:

“We are also working with the Scottish National Investment Bank ... to assess the pipeline of shared ownership”.

That is not really what I asked. I asked whether the SNIB would provide a tranche of money, because it is a bank and it is supposed to operate on commercial terms. If it grants a loan to communities, there is a guaranteed income stream and, thereby, it is a lendable proposition based on a financial flow of income that could be used to repay the loans.

In the light of that, could we press the minister with regards to the petitioner’s point that the Scottish Parliament has legal power to do this? Perhaps the petitioner is wrong, but I think that we owe it to the petitioner to follow up that point. Secondly, we should write directly to the SNIB to ask whether it plans to make a tranche of money available and, if not, why not because this seems to be an ideal opportunity.

Lastly, convener, I would like to press the minister a bit further. Many moons ago, I was in his position as the energy minister and proactively worked with banks such as the Co-operative Bank, Close Brothers and Triodos Bank to ensure that they provided 90 or 95 per cent of loan funding, with the Scottish Government, through a renewables fund, providing the remaining 5 or 10 per cent. That worked extremely well.

I am sorry to go on at some length, but this is an important opportunity for communities in Scotland, and particularly in rural Scotland. We need to get on with this and there is a huge desire to do it. It is far better to own a stake than to get a cheque, or the so-called community benefit. The communities that have established community ownership have reaped a huge benefit, which has enabled them to help people in their community who are disadvantaged, or to help with kids’ education or whatever they so choose.

I hope that members feel that those suggestions are worth pursuing rather than closing the petition today. My apologies to members who think otherwise.

The Convener: I think that Mr Torrance has been gazumped. Thank you very much for that, Mr Ewing. I think that the committee should take forward both those points, which were passionately and coherently argued. We will return to the minister to seek clarification, using the context of the submission that we have received, which appears to be quite detailed in respect of the petitioner’s contradictory view.

Secondly, as Mr Ewing suggests, it would be good for us to ask the SNIB whether it plans to make money available and, if not, why not. Obviously, that would facilitate the kind of progress that the petitioner is looking for and, as Mr Ewing says, it ought to be within reach and achievable.

Fergus Ewing: I am always looking for a chance to agree.

The Convener: In some ways, if not in others.

Are we agreed with our colleague’s suggestions?

Annexe C

Scottish National Investment Bank submission of 13 March 2023

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

The Scottish National Investment Bank has been working with the Scottish Government, Local Energy Scotland and engaging with communities and developers in recent months to assess the pipeline of shared ownership opportunities and the alternative ways in which those opportunities could be financed. An important aspect of this work has been about understanding developer and funder appetite for shared ownership models and ways in which barriers can be overcome. Local Energy Scotland are conducting further research in relation to both of these aspects, the results of which the Bank expect to have sight of and to consider in the coming weeks. This will enable the Bank to develop a firmer position on the role which it can play in helping to facilitate Community Shared Ownership. We will of course stay in touch with the Committee on this issue, and will provide a written update in due course.

Minister for Energy submission of 6 April 2023

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

Thank you for your letter of 21 March 2023 concerning the above petition.

You ask if the Scottish Government could pursue mandating Community Shared Ownership through its existing tax powers, and to consider how it can work with the finance sector to secure a means of funding for Community Shared Ownership.

As you point out, shared ownership of onshore and offshore renewable energy developments is currently voluntary. Electricity regulation, generation, transmission and distribution is reserved to the UK Government; this means that any legislation relating to how consents for electricity generation stations are granted will relate to a reserved matter, putting it beyond the legislative competence of the Scottish Parliament. The Scottish Government cannot therefore legislate to require the provision of shared ownership from renewable energy developments.

Scottish Ministers continue to press the UK Government for greater support to communities and energy consumers, including seeking additional powers for energy consenting. As set out in the draft Energy Strategy and Just Transition Plan, we are committed to engaging with the UK Government to consider mechanisms for increasing offers of shared ownership in relation to renewable energy developments. These could potentially include powers to make such benefits and offers of shared ownership mandatory, subject to full consultation.

Within current devolved powers, we continue to explore different avenues to enhance the provision of community benefits and shared ownership. This includes targeted incentives such as providing Non-Domestic Rates relief to renewable energy generators who provide community benefit and shared ownership.

We would therefore welcome discussion on the role of tax as a lever to support wider Scottish Government policy objectives.

Any tax changes must be considered alongside the impacts on public expenditure, taxpayers and stakeholders in a careful and measured manner, following the Framework for Tax and the principles of the Scottish Approach to Taxation. In considering options for a potential tax relief, supplement, or new tax, we must also work to ensure certainty for taxpayers, while addressing issues of unfair or unintended

consequences. However, we would be interested to explore the possibilities in this area in more detail.

In response to your interest in how the Scottish Government will support funding routes to enable communities to pursue shared ownership, we are working with the Scottish National Investment Bank and Local Energy Scotland to assess the pipeline of shared ownership opportunities – alongside other appropriate community energy projects – and the alternative ways in which those opportunities could be financed.

As part of this work, Local Energy Scotland is exploring developer and funder appetite for shared ownership models and ways in which barriers can be overcome, the results of which the Scottish Government and SNIB expect to see in the coming weeks.

The Committee may also be interested to note that we have commenced a review of our existing Good Practice Principles for Community Benefits from Offshore Renewable Energy Developments ahead of plans to consult on the draft guidance later this year. We will ensure that we build any relevant lessons from this process into future updates to the equivalent guidance for onshore renewables.

I hope the Committee finds this response helpful.

Minister for Energy, Gillian Martin MSP

Petitioner submission of 14 May 2023

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

It is good to read the Minister's reply and her openness to dialogue on the possible use of the devolved Land and Tax laws, as well as the Scottish Government's Powers under Section 36, to make a Community Shared Ownership offer compulsory for all new windfarm developments. However, a) the Minister has not indicated how this discussion is to take

place in order that the Petitioner, the Community and the Committee might engage/input to this discussion. And b) nor has she indicated whether the Scottish Civil service and its legal/constitutional experts agree (from a technical perspective, putting aside political considerations) that the Scottish Government actually has the power to make such provisions under its devolved powers (as per the original petition) and its Section 36 powers that it admitted it had to the Committee back in 2022¹.

Given the massive increase in on-shore wind farm generation needed to meet the Scottish Government's targets it is imperative that these questions are answered urgently and if feasible, implemented without delay in order that the huge number of impacted communities might gain such offers and, if they chose to accept, benefit from the windfarm developments. It would also help ensure the Scottish Government met its 2030 target of 3GW of Community owned renewable energy projects which it is currently failing to meet. Thus, I would ask that Minister gives a speedy response to the 2 questions outlined above.

¹ Scottish Government written submission of 18 August 2022