

Citizen Participation and Public Petitions Committee
Wednesday 26 June 2024
12th Meeting, 2024 (Session 6)

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

Introduction

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>

1. [The Committee last considered this petition at its meeting on 25 October 2023](#). At that meeting, the Committee agreed to write to the Minister for Energy and the Environment, 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 new written submissions from the Minister for Energy and Environment, the Petitioner, and the Scottish National Investment Bank, which are set out in **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 gave its initial response to the petition on 19 August 2021](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 84 signatures have been received on this petition.

Action

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

Clerks to the Committee
June 2024

Annexe A: Summary of petition

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 25 October 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 development.

We have received a response from the Scottish National Investment Bank, which states that it has been working with the Scottish Government and Local Energy Scotland while engaging with communities and developers on shared ownership. Local Energy Scotland conducted research on developer and funder appetite for shared ownership models and ways in which barriers can be overcome.

The Minister for Energy and the Environment's submission to the committee highlights that the Scottish Government would be interested in exploring the possibilities of utilising tax powers as a lever to support wider policy objectives. In response to the minister, the petitioner notes that there is no indication of how discussions on the Scottish Government's work will take place or how she and others might engage.

The Government has shown some interest in the issue. Members, do you have any comments and suggestions?

Fergus Ewing (Inverness and Nairn) (SNP): I have a few suggestions to make. As the clerks have helpfully suggested, perhaps we can write to the Minister for Energy and the Environment to ask whether the Scottish Government has the power to mandate community shared ownership for new wind farms, first, by using the devolved power under section 36 of the Electricity Act 1989 to lower the threshold for when an application to build a wind farm requires a minister's consent and, secondly, by withholding consent from any application that did not agree to a community shared ownership model. That is my first suggestion.

I want to make another suggestion, or an extended comment, if I may, convener. On rereading the submissions, I note that the Scottish National Investment Bank's submission is dated 13 March, which is a long time ago now, and that the minister provided a submission on 6 April. Both submissions were quite helpful. Both referred to the work that Local Energy Scotland is doing, to which you have alluded, saying that they expected to hear from the organisation—this is the phrase that both used—“in the coming weeks”. Weeks have come and gone—months have elapsed—since then.

I will give one example. I spoke to a wind farm developer who is proposing to develop a fairly large wind farm in the Dava area of my constituency, which is already covered with wind farms and where the populace's view of them is mixed. Initially, the developer wanted 50 turbines but is now down to 18, mainly because the Cairngorms National Park Authority has negotiated the number down to that figure. I have long thought that a way in which community ownership can be made to work, without its being seen as a penalty on commercial companies, is that, instead of a developer proposing 18 turbines, they propose 20 or 22, with the additional two or

four being community owned. In other words, the company gets what it was planning to get anyway, but, in exchange for planning permission, it is required to enable the development to be expanded so that communities can add two or four turbines. In those distant days of yore when I was the responsible minister, funding was available for that to be facilitated. Triodos Bank, Close Brothers, the Co-operative Bank and some others funded it to the tune of between 90 and 95 per cent, with the Scottish Government funding the remaining 5 to 10 per cent. That allowed communities to have a real stake of ownership. My worry is that time is passing us by. Such applications are being made all the time, and every one that is granted is a lost opportunity.

The petitioner, Karen Murphy, has pointed that out. Lots of applications for onshore wind farms are going on all the time. Therefore, I wonder whether we could ask the minister and the SNIB to show a little bit more urgency in telling us what Local Energy Scotland has said, as they promised they would do within a few weeks of their submissions but have not done, and generally knock them out of this somewhat complacent approach when the real opportunities for Scotland, which everybody sees—I do not think that this is political, convener—are passing us by. We are losing those opportunities, when we used to grab them. There is a long history to this, and I have probably gone on long enough, so I will not even go to chapter 1 of that long history, you will be relieved to hear.

The Convener: That was just the prologue.

Fergus Ewing: Indeed. It was the preface to the prologue. [Laughter.]

I feel very strongly that that approach could transform rural Scotland by providing not just £5,000 per megawatt, which is looking a bit jaded and out of date now, but a real ownership stake. That is when the real opportunities to transform rural Scotland will arise, by using the fund to invest in young people's training, education and future.

I thought that making those remarks might help the minister to see that opportunity knocks but that we are in danger of the postman going on to the next house. That could happen in this case.

The Convener: With that metaphor ringing in our ears—the postman never knocks twice. Is that the—

Fergus Ewing: That is a different kind of movie. [Laughter.]

The Convener: In which case, with that very entertaining polemic, are we content to embrace those suggestions? I quite like the idea that we encapsulate, in our further inquiries, the point about missed opportunity. This petition has been with us now since—when was it first lodged?—August 2021. Two years have gone by. Mr Ewing makes the point about applications being granted but nothing happening, which means that there have been two years of lost opportunity. There we go.

Fergus Ewing: We could have done that instead of doing a few other things.

The Convener: As there are no other suggestions, are we content to proceed on that basis?

CPPP/S6/24/12/2

Members *indicated agreement.*

Annexe C: Written submissions

Minister for Energy and Environment submission of 14 November 2023

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

Thank you for your letter of 31 October 2023 concerning the above petition.

You asked if the Scottish Government has the power to mandate Community Shared Ownership (CSO) for new windfarms by:

- a) using the devolved power under section 36 of the Electricity Act 1989 to lower the threshold for when an application to build a windfarm requires Ministers' consent and;
- b) withholding consent from any application that did not agree to a CSO model.

While Scottish Ministers have powers under section 36 of the Electricity Act 1989 to adjust the 50-Megawatt threshold, electricity regulation, generation, transmission and distribution is reserved to the UK Government. This means that, in the Scottish Government's view, any legislation relating to how consents under section 36 for electricity generation stations are granted would 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 as part of the consenting process. CSO are voluntary arrangements, and do not form part of the assessment and determination of an application, which means that consent is not able to be withheld on this basis.

Scottish Ministers continue to press the UK Government to provide greater support to communities and energy consumers.

The Scottish Government continues to support and encourage CSO from onshore renewables. The Onshore Wind Sector Deal, published in September 2023, includes a collaborative commitment to develop practical approaches to support and encourage CSO models to assist developers, funders, local government and communities to engage in these opportunities, publishing a framework by the end of 2024. The deal is a shared commitment between Government and industry to deliver upon our joint ambitions while growing a key sector in a way that aligns with the principles of a just transition.

As set out in the draft Energy Strategy and Just Transition (ESJTP), we are committed to maximising the benefits flowing into communities from the energy transition to net zero. My officials are currently developing policy proposals for inclusion in the final Strategy, informed by the ESJTP consultation, that will build on the successes of CARES, our existing good practice principles for community benefit and shared ownership of onshore renewables, and the commitments set out in the Onshore Wind Sector Deal. Through this process we will explore a range of available

routes to support CSO, including working with Local Energy Scotland to reflect on the findings of their market engagement report.

The Scottish Government continues to engage with the Scottish National Investment Bank, who work to support the development of a fairer, more sustainable economy while remaining operationally independent of the Scottish Government and Scottish Ministers.

I hope the Committee finds this response helpful.

Gillian Martin MSP

Petitioner submission of 27 November 2023

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

I thank the Minister for answering the Section 36 question and for outlining her Community Shared Ownership (CSO) plans. However her response is deficient and insufficient in a number of ways.

Her plans, as given in her response, are insufficient to ensure CSO and a Just Transition for communities – neither the Onshore Wind Sector Deal nor the Energy Strategy and Just Transition make CSO mandatory. But the evidence is unequivocal – the industry is happy to sign up to non-mandatory CSO commitments and then ignore them. In Kintyre of the 15 onshore windfarm developments that are within, or recently progressed through, the planning process, only 2 have offered CSO to the Community. To be blunt, the industry signed up to the 2019 Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments and then flouted them, putting their own profitability ahead of all other considerations. **The industry will ignore her plans and commitments, unless CSO is made mandatory.**

Her response is deficient in two ways – A) in that it does not (**yet again**) answer the petition's main focus that a mandatory CSO offer for onshore windfarms could be implemented through the devolved Land & Tax powers as detailed in the petition (in order to assist the committee, these are detailed below), and B) the Minister has still not indicated how she intends to dialogue with the Petitioner, the Community and the Committee on the possible use of the devolved Land and Tax laws to make a CSO offer compulsory for all new windfarm developments (as per her response of 6 April 2023).

I would humbly request that (once again) the Committee seeks an answer from the Minister to these 2 questions.

In order to assist the Committee, here are the specifics of the devolved powers that could be used to make CSO mandatory:

- the Scottish Government has the power to raise new land taxes on any transactions & transfers involving interests in land, (Part 4A Chapter 3 of the Scotland Act).

- the Land Registration etc (Scotland) Act 2012 (and the concomitant 2012 Act Registration Manual of the Registers of Scotland) defines 'transfer' as being any 'transfer of whole' or 'transfer of part' which requires the creation of a new title sheet with the Registers of Scotland – this includes the creation of leases between 3rd party wind farm developers and landowners.
- thus the Scottish Government has the power to legislate for a new 'tax' – one that would require all developers who don't own the land to make a CSO offer that fully meets the criteria of the Good Practice Principles.

Scottish National Investment submission of 18 December 2023

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

- The Bank is open to considering the financing of community shared ownership opportunities, and is actively considering the role for the Bank in this space.
- As outlined previously, we have been working with the Scottish Government, Local Energy Scotland and with communities and developers to assess the developing pipeline of shared ownership opportunities, how those could be facilitated and financed in a way which meets the needs of both the developer and the community, and the potential role for the Bank within this context.
- This work includes assessing the scale and level of interest at a community level, developer considerations, how to best cater for community engagement on complex financial transactions, and the current appetite within the private sector to fund shared ownership models. It also includes assessing the practicalities of standardising a replicable finance offering which can be applied across all projects of this type.
- The various complex issues outlined above would require to be resolved in advance of any mandatory requirement being put in place, to ensure that shared ownership is capable of being facilitated and financed in a fair and efficient way and meets the needs of both the developer and the community.