Brookfield Renewable UK Limited (BRUK) welcomes the opportunity to respond to the Scottish Parliament Local Government and Communities Committee call for the evidence on the Planning (Scotland) Bill, having responded to the Scottish Government’s initial consultation in April 2017. We would welcome the further opportunity to brief the Committee in person on the issues we raise in this submission should the Committee consider it helpful.

We have framed our submission within the context of the relationship between the planning system and the development and deployment of onshore wind energy in Scotland. As well as stating our views on the proposals within the Bill, we have outlined what we believe to be the current challenges in the system requiring attention.

The planning system is a critical regulatory factor in the development of onshore wind energy in Scotland, and therefore crucial to the success of the Scottish Government’s energy and climate change ambitions. In our view, the proposals outlined in the Bill will result in a welcome increase in consistency and clarity in the implementation of national and local planning policy, better relationships between local communities and developers and therefore support the development of Scotland’s onshore wind potential. However, there are a number of areas in which we think the Bill could be improved.

About Brookfield Renewable UK Limited

BRUK is a subsidiary of Brookfield Renewable Partners, one of the largest publicly-traded, pure-play renewable power platforms globally. Brookfield Renewable’s power portfolio includes over 260 facilities totaling 10,700 MW of hydroelectric and wind capacity and is diversified across 15 power markets in seven countries. The global operating platform employs over 2,000 people.

BRUK is building a European platform to provide fully-integrated development, operating, commercial and power marketing capabilities. Today, the platform consists of 473 MW of operating wind capacity across the UK, Ireland and Portugal, and a development pipeline of approximately 1,400 MW.

In Scotland, BRUK has an office in Edinburgh with a team of specialist staff focused on the acquisition and development of suitable onshore wind energy sites throughout
the UK. It currently has 20 MW in construction, 150 MW of permitted capacity with a further 50 MW in planning, and a greenfield pipeline in excess of 500 MW.

**Context**

We welcome the progress that has been made in decarbonising Scotland’s electricity supply and the commitment to meeting Scotland’s electricity needs wholly from renewable sources by 2030. As one of the largest developers actively investing in onshore wind in Scotland, we remain committed to sourcing sustainable, economically viable and efficient sites to support the Scottish Government in achieving its emission reduction targets, working in partnership with local communities to ensure the benefits derived from each development have a positive material effect on the local economy that is long-lasting.

As both the Scottish Government Draft Climate Change Plan and Energy Strategy make clear, the continued development of onshore wind in Scotland will be crucial for meeting the target of full decarbonisation of electricity supply by 2030 and for continuing as a major Scottish export, wealth creator and employer\(^1\).

As the Committee will be aware, the low wholesale price of electricity, the changing UK-wide subsidy framework and other industry challenges, such as finding new routes-to-market in a subsidy-free context, pose significant challenges to the future of the industry in Scotland. The report undertaken by the Scottish Affairs Select Committee in 2016 outlines these issues in detail\(^2\). We welcome and share the Scottish Government’s ambitions, as outlined in its Draft Climate Change Plan and Energy Strategy, to make Scotland the first country in the UK to facilitate commercial wind farm development without subsidy.

In our view, the key policy response required to realise this significant ambition is to ensure the optimal regulatory environment is in place. As the Committee will be aware, the planning system plays a key role in appropriate, efficient and economically viable onshore wind development.

**The relationship between planning and onshore wind development**

The efficient and consistent application of the planning system, in both local and national contexts, is a critical component of the regulatory environment surrounding successful onshore wind development. Improvements to the coherency and consistency of application of local development plans in local decision-making, and permeance of national policy across all aspects of the planning system, will be

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\(^1\) ONS figures on the low carbon and renewable energy economy in the UK for 2014 show onshore wind accounted for £3.2 billion in turnover, with Scotland having 46% of UK employment.

\(^2\) [https://www.publications.parliament.uk/pa/cm201617/cmselect/cmscotaf/83/8302.htm](https://www.publications.parliament.uk/pa/cm201617/cmselect/cmscotaf/83/8302.htm)
important for the future success of the onshore wind industry in Scotland in a subsidy-free context.

From the outset, we believe it is important to address a prominent misconception about the relationship between developers and local communities. In our experience, building strong relationships with local communities around our proposed sites is crucial to a successful and enduring two-way partnership between developers and local people.

Local communities play an important and significant role in the development process by providing feedback on our plans and shaping our proposed projects. We value the role the community plays in this regard and welcome the Scottish Government's intention to bolster it. Furthermore, we see first-hand the direct positive impact community benefit and ownership arrangements can have on local economies. The Community Liaison Groups we establish to inform each of our developments, which include representatives from local community councils and community associations, are a key part of the process from our pre-application consultation through to construction, commissioning and beyond.

As the Committee will be well aware, national planning policy, with specific reference to onshore wind farms, is outlined in a suite of documents, but principally the National Planning Framework (NPF), and Scottish Planning Policy (SPP) documents.

Our experience of engaging with the local and national planning systems for onshore wind development raises the following issues in relation to the application of these policies and Section 5.2 of the Draft Climate Change Plan.

1. Coherency and consistency between local and national planning policy

All local development plans must take account of the National Planning Framework, of which a core pillar is a commitment to a “Low Carbon Place.” As the Committee will be aware, the Local Development Plan is the basis on which applications for wind farms are largely judged.

In our view, there is often disparity in the consistency with which, and the extent to which, local development plans are used in the assessment of wind farm applications. Our experience tells us that the contribution onshore wind development makes to cutting emissions, a key requirement in local development plans, is not given due weight in local planning processes that national policy suggests it should. Furthermore, this situation is sometimes applicable to both the assessment of different applications in the same area and the differences in approach and application across different geographic areas.

We believe that there should be greater consistency in the drafting of local development plans and in the subsequent assessment of wind farm applications,
and mechanisms should be established to ensure that national planning priorities, such as “Low Carbon Place”, are sufficiently accounted for in local decision making.

2. The presumption in favour of development that contributes to sustainable development

Section 5.2.5 of the Draft Climate Change Plan outlines that there is a presumption in favour of development that contributes to sustainable development\(^3\). Our experience suggests that this is often not the case, and whilst there may be a presumption in favour of proposals that contribute to sustainable development, in many instances this does not extend to wind farm developments.

It is fundamentally in our interests, and in the interests of other developers in the market, to bring forward proposals that are appropriately sited, scaled, and carry the support of the community in good faith. Ultimately for all wind farm developments, the process of assessment in local decision making requires a consideration of all relevant factors in the overall planning balance to allow a decision on what is acceptable.

However, in some cases we do not feel that the consideration of our applications is taking place in the context of a presumption in favour of sustainable development. It is, as the Draft Climate Change Plan acknowledges, an important consideration, and one that should attract significant weight in the balancing of relevant factors in the determination of wind farm applications. In our view, we believe that further steps could, and should, be taken to ensure this presumption features more heavily, where projects on balance, meet other relevant material considerations.

This would further conform with the ‘Policy Principle’ in SPP Paragraph 27 which states\(^4\):

“This SPP introduces a presumption in favour of development that contributes to sustainable development”.

3. Local planning

Section 5.2.5 of the Climate Change Plan also supports a principle of strategic planning for wind farm locations. This principle is outlined in paragraph 161 of SPP. SPP, paragraph 161, provides details for Planning Authorities with regards to the preparation of spatial frameworks for onshore wind development, and makes it clear that proposals for onshore wind turbine development should continue to be determined whilst spatial frameworks and local policies are being prepared and updated. SPP is very clear, and in our view correct, in having a focus on protecting


\(^4\) [http://www.gov.scot/Publications/2014/06/5823](http://www.gov.scot/Publications/2014/06/5823)
National Parks and National Scenic Areas. Wind Farms are generally guided to ‘Group 3’ areas.

Whilst many Local Authorities will compile “areas of search” for wind farm development, there are often a number of additional layers of protection and sensitivities added by a Local Authority to those “Areas of Protection” included in SPP. This is in direct conflict with the explicit requirement of paragraph 163 that this should not be the approach.

In addition, “areas of search” often do not reflect current turbine technologies and scale, and do not provide scope for consideration of other relevant factors such as economic and commercial viability – a very necessary and acknowledged consideration of the Scottish Government in its support and ambition for the deployment of subsidy-free development. As the onshore wind industry develops, there are naturally fewer sites that are economically viable in a subsidy free context that will fall within Group 3 “Areas with potential for wind farm development.” As such, our view is that it will be necessary for the Government to consider the real implication of projects being assessed at a local level where additional layers of protection are applied in what otherwise would be Group 3 sites.

Accepting a clearer ‘plan-led’ approach at a local level, which is consistent with SPP, will be crucial in taking forward commercially viable wind farm developments.

The Planning (Scotland) Bill

General observations

1. On a general level, BRUK supports the policy intent of the Bill, and believes it will result in a more consistent, inclusive and better performing planning system which will improve outcomes for both communities and developers. However, we believe the Bill could go much further to support the Scottish Government’s renewable energy ambitions.

2. At present, the Bill does not mention other key national government policies, such as the Draft Climate Change Plan and associated legislation, the Energy Strategy or the Onshore Wind Policy Statement. Given that the planning system is a crucial regulatory factor in the delivery of the policy objectives in these other documents, it is important there is a link to them in the Bill itself.

3. The Bill should, we believe, be more explicit in setting out how the preparation of national and local planning policy should identify opportunities for supporting the deployment of renewable energy development.

4. We do not believe the Bill goes far enough to improve the coherence between national planning policy, as set out in the National Planning Framework (NPF), and local planning policy and delivery, as set out in the Local Development Plan (LDP).
National, regional and local planning

5. BRUK supports merging Scottish Planning Policy and the National Planning Framework as a way of strengthening national planning policy and introducing greater focus on delivery. However, there is little reference to the Scottish Government’s commitments on renewables in the Bill.

6. We believe this could be strengthened by introducing a statutory link to the key national policies such as the Climate Change Plan, Energy Strategy and Onshore Wind Policy Statement by ensuring the NPF has regard for them.

7. In addition, as part of Section 1(6) of the Bill which inserts new provisions about the information to be considered when developing the NPF, there could be a specific requirement inserted about development and deployment of renewable energy.

8. To improve the consistency in the application of national planning policy in local decision making, the Bill should strengthen the requirements on the relationship between the NPF and LDPs from “have regard for” to one of compliance.

9. We support the concept of the National Planning Framework moving to a ten-year life cycle, as this will provide greater clarity and certainty to aid key investment decisions. However, given this longer-term approach, the NPF must be more prescriptive and detailed as to how it will support the development and deployment of renewable energy. For example, the NPF should set out principles in relation to an assumption in favour of new technologies, including new turbines and varying tip heights, providing there is no adverse visual or environmental impact. Furthermore, the NPF should introduce consistency in approach to the identification of strategic capacity for wind farms across planning authorities.

10. We support the removal of Strategic Development Plans and the duty of local authorities to co-operate. In our view, this will result in less complexity in the relationship between the NPF and LDP.

11. We believe the proposals in relation to Local Development Plans will result in a more delivery-focused system, particularly by ensuring its primacy. However, as previously stated, there should be a stronger link between the NPF and LDPs.

12. Similar to the preparation and content of the National Planning Framework, we believe the Bill could do more to ensure consideration of renewables features in the preparation of the Local Development Plan. For example, the potential for the development of renewables could be an explicit matter that is considered as part of the preparation of an LDP as currently set out in Section 15 (5) of the Town and Country Planning (Scotland) Act 1997. Under the provisions of the Bill, this would mean that the renewables would feature more prominently in the “gatecheck” and “Evidence Report”.

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13. We support the concept of involving a wide range of stakeholders, including local communities and developers in the preparation of the Local Development Plan. However, our experience of engaging local communities has led us to conclude that statutory consultees (such as community councils) are not always representative of local communities as a whole.

14. We support the removal of Supplementary Guidance.

**Simplified Development Zones**

15. We support the policy intent of Simplified Development Zones, and we would urge consideration of how they could be used strategically to support the development on onshore wind.

**Involving communities**

16. In our experience, measures that meaningfully involve local communities at the earliest stages of planning result in better outcomes. As such, we support the concept of Local Place Plans, but agree with the Scottish Government’s position that their introduction should not compromise the primacy of the Local Development Plan.

17. From our experience of working with local communities on our sites, from the earliest stages of pre-application through to the administration of community benefit, it is important that they are supported with the resource and skills to engage with the process. It is also important to note the limitations of statutory consultees in terms of legitimate representation. All parties need to remember that, often, the views of the Community Council may not reflect those of the whole community.

18. We support the Scottish Government’s position not to introduce a Third Party Right of Appeal. Whilst it is important the views of communities are integral to planning decisions, such an appeal mechanism would act as a major additional barrier to the development of onshore wind on land that has been identified as appropriate for this type of development. There are sufficient protections in national and local planning policy to prevent the development of onshore wind where it is not appropriate. In our view, bringing all stakeholders together at the earliest stages of the Local Development Plan process is a more constructive and positive approach.

**Development Management**

19. There are often instances when there are barriers to development on consented sites for reasons and factors beyond the control of the developer. Such barriers include external delays such as grid infrastructure delivery, or the timely delivery of aviation solutions. Therefore, we support the provisions in the Bill to provide flexibility in the duration of planning permission and planning permission in principle where the terms are set out as part of the conditions.
20. For similar reasons outlined above, we support the introduction of a right for applicants to object to a Completion notice.

Skills and Capacity

21. BRUK supports the proposals outlined in the Bill in relation to improving the skills and capacity of elected representatives. Planning matters, especially in relation to renewables, are very technical in nature and it is unfair to expect elected representatives to be able to make crucial decisions without the necessary knowledge. We believe this will result in an increase in the quality and consistency of decision-making, and fewer appeals.

22. We support the proposals in the Bill aimed at monitoring and improving the performance of planning authorities. We believe this will improve the quality and consistency of decisions and result in fewer appeals.

23. We are open to proposals for changes in planning fees in order to drive improvements in performance. However, it is important that an outcomes approach is taken to realising increased performance to justify an increased investment by applicants. Similarly, a link between increasing cost and improved outcomes could mitigate risk that wider development objectives are compromised.

Concluding and summary remarks

BRUK welcomes the opportunity to provide this submission to the Committee and highlight the interdependency of the Scottish planning system and the Scottish Government’s ambitions in relation to climate change, renewable energy and the future deployment of subsidy-free onshore wind.

Presently, we believe the proposals outlined in the Bill will go some way to improving the quality, consistency, and efficiency of Scotland’s planning system, which will be beneficial to the onshore wind industry. However, there is significant room for improvement in terms of the coherency between the Bill, as it stands and other key national policies including the Climate Change Plan, the Scottish Energy Strategy and the Onshore Wind Policy Statement.

The changing subsidy landscape in the UK both in terms of the Renewables Obligation and Contracts for Difference, combined with the very low wholesale price of electricity means the economic viability of current and new developments is very challenging.

We welcome the Scottish Government’s ambition to achieve subsidy-free wind in Scotland, however, there are many real and current barriers that make this ambition challenging in terms of reducing capital and long-term operational costs. Although energy is predominantly reserved to the UK Government, there is a lot we believe the Scottish Government can do through this Bill to ensure Scotland’s planning system, as an important regulatory factor, promotes the appropriate development of renewables.
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