Dear Sirs,

Scottish Local Government and Communities Committee’s Call for Evidence on the Planning (Scotland) Bill

This response is made on behalf of Innogy Renewables UK Ltd (innogy) which develops, owns, operates and maintains a portfolio of onshore wind, offshore wind and hydro-power generating stations across the UK. Innogy welcomes the opportunity to contribute to the call for evidence on the future of the Scottish planning system which has a significant bearing on our development activities in Scotland.

We welcome many of the recommendations included in the Planning (Scotland) Bill (‘the Bill’) which provide a good balance between empowering communities, protecting the environment and facilitating development in the energy sector. We are, however, concerned that the focus of the Bill relates primarily to the provision of housing and, whilst we appreciate the importance of planning for housing, there needs to be awareness of the needs of infrastructure and industry with regards to planning policy. We would also encourage the Committee to consider the Scottish Government’s Scottish Energy Strategy in their analysis of the Bill.

Please see below innogy’s responses to the specific questions. I can confirm that this response may be published on the Scottish Government’s website.

Yours faithfully,

Eleri Davies
Planning Specialist
Innogy Renewables UK Limited
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?

The Bill as drafted strikes a good balance between securing development and taking account of the views of communities and protection of the built and natural environment. Innogy largely welcomes the proposed changes to Scottish planning policy, particularly those to the National Planning Framework (NPF) which we are confident are robust and will support sustained infrastructure investment in Scotland. We would, however, urge greater cooperation between different teams within the Scottish Government as the recently Scottish Energy Strategy and Onshore Wind Policy Statement do not appear to be fully reflected in the 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 development types.

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 and increasingly offshore wind as well as pumped, micro and large-scale hydro plant. Furthermore, we recognise the size of Scotland’s renewable electricity generation capacity that is now equivalent to approximately 53.8% of Scotland’s electricity consumption. In order to continue to deliver against the Scottish Government’s ambition there must be a planning regime in Scotland which can act as an enabler to further developments of this kind.

The industry is anticipating a review of the NPF however we do not see this reflected within the Bill. The Bill’s proposals to subsume the Strategic Development Plans (SDP) into the NPF will provide benefits in streamlining policy however Innogy urges caution to avoid losing anything valuable from the SDP in that process. We look forward to responding to the NPF/SDP consultation later in 2018 to support this process.

Innogy supports 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.

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?

No comments.

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?

Agree with the removal of Strategic Development Plans (SDP) to streamline and simplify the planning process. Please see response to Question 1 above.
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?

In relation to amendments to the LDP, “New sections 20AA(1) to (3) of the 1997 Act enable planning authorities to amend a local development plan for their district at any time and allow the Scottish Ministers to direct a planning authority to amend a plan in relation to matters set out in the direction. The Scottish Ministers are required to set out the reasons for their direction”. This could potentially pose issues to a developer, in terms of uncertainty, as the LDP could supersede NPF guidance if it is more up-to-date. For example, a planning authority could use it against a developer through revising the LDP when it suits them, possibly during the processing of a planning application. The Scottish Government needs to ensure that there are sufficiently robust measures in place to ensure that any amendments to the LDP follow due process and that the LDP amendment process cannot be used as a means to frustrate development proposals.

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

The Bill is highly focused on housing so it is hard to envisage Simplified Development Zones (SDZ) impacting on energy infrastructure. Nevertheless, as has been made clear in the Onshore Wind Policy Statement, a spatial zoning approach to energy infrastructure would be inappropriate and we believe that this needs echoing in the 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?

The Bill as drafted strikes a good balance between securing development and taking account of the views of communities and protection of the built and natural environment. To preserve this balance, innogy would resist 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.

Any Local Place Plan (LPP) should be in accordance with the adopted Local Development Plan (LDP) for the area and not introduce unreasonable restrictions on developments.

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?
Planning authorities (PAs) are imposing unreasonable conditions on planning consents requiring a financial contribution from developers to fund a monitoring officer during construction. Innogy is concerned that the provision in the Bill may give PAs more power to impose such unreasonable conditions. Monitoring compliance is a statutory function of PAs and developers should not be required to fund this. Planning fees have recently been reviewed resulting in a significant increase in fees for onshore wind projects. These increased fees should cover the cost of determining applications as well as future monitoring and it would be unreasonable to impose further costs on developers.

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?

In England and Wales, the Community Infrastructure Levy (CIL) only applies to buildings occupied by people and does not apply to energy projects; energy projects are also listed as possible beneficiaries of CIL. This same position should be adopted in Scotland as it would be completely unreasonable for energy projects to be required to pay CIL. Applying CIL to energy projects could affect the viability of schemes, including renewable energy projects, which are already expected to offer community benefit payments and an element of shared ownership, and are required to pay significant business rates.

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?

Innogy strongly supports this recommendation. Ensuring that local government councillors are appropriately trained is critical to providing a fit for purpose, value-adding planning system. We welcome the proposal that this training be compulsory and the recommendation that untrained councillors will be barred from planning decision-making.

There is a risk that following a local election there is a hiatus where there are no trained councillors – training new councillors on the Planning Committee needs to be timely.

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

Innogy supports this proposal in principle. In our response to the People, Places and Planning consultation we made the point that any increase in planning fees needs to be coupled with improved performance; 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?

Planning fees have recently been reviewed resulting in a significant increase in fees for onshore wind projects. Any further planning fee increases or fees for ancillary services could potentially affect the viability of projects. For consistency and certainty, innogy would prefer all fees to be set centrally by the Scottish Government and would resist any proposals to allow PAs flexibility to set their own fees which would result in different fees at different local authorities. Fundamentally, fees have to be proportionate and, as fees increase, we expect a corresponding improvement in service.

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

Innogy welcomes the recommendation to change the duration of planning permissions and the proposed change that will allow a developer with a consent to be implemented within three years to apply under Section 42 of the Town and Country Planning (Scotland) Act 1997 to extend this consent. Implementing a consent within three years is a challenge for energy developers who normally have to a longer timescale in the period from consent to commencement of construction.

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 ‘established 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 could be significantly reduced due to knowledge gained during assessments for the original site and data gathered during its operation. 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 any opportunities for reusing existing infrastructure is maximised.