Dear Local Government and Communities Committee,

Call for Evidence – Planning (Scotland) Bill

Thank you for the opportunity to respond to this Call for Evidence on the Planning (Scotland) Bill. As a major developer of essential energy infrastructure SP Energy Networks has considerable experience of working within Scotland’s planning system.

SP Energy Networks are supportive of proposals which provide a clear and consistent approach to planning across Scotland, reduce bureaucracy, places an emphasis on outcomes and supports delivery. We welcome the Bill’s strong recognition of the importance of the national development priorities in supporting sustainable development, as set out in the National Planning Framework (NPF). We are strongly supportive of the NPF’s national priorities being reflected in development planning and decision making at the national, regional and local levels.

Given the Scottish Government’s ambitious plans for tackling climate change, together with a clear focus on supporting the housing market, the planning system must be explicit in delivery of the essential infrastructure required to support it.

The attached Annex contains our responses to the questions posed. Should you have any questions in relation to our response, please do not hesitate to contact me.

Yours sincerely,

Grant Douglas
For and on Behalf of SP Energy Networks
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?

SP Energy Networks support, on balance the need to secure appropriate development whilst ensuring that communities are engaged in the process. This cannot be achieved by focusing on a single industry. There should be a greater and more holistic consideration of the country’s infrastructure needs.

SP Energy Networks are strongly of the view that the role of planning should be central to Scottish Government strategy across a range of industries. The need for sustained infrastructure development, such as our planned investment in the Electricity Network will be crucial in facilitating a full range of development types and a sustainable economy. It is essential that the planning system supports and streamlines the delivery of such investment.

If a wider aim is to deliver a more efficient planning system, an increased level of local community involvement will require to be balanced with an emphasis on sustainable economic development along with appropriate levers. The role of communities in the planning process is welcomed but this requires to have clear parameters and appropriate safeguards to ensure that nationally significant schemes, including development of the electricity network are not delayed. The Bill needs to be clear on the weight given to Local Place Plans in the decision making process and clear on the timelines to be applied for consideration of these plans.

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?

It is important that the Bill doesn’t focus too heavily on the delivery of housing and thus lose sight of other important development types, which in the case of SP Energy Networks is mainly key infrastructure in the form of overhead lines, substations and underground cables. The delivery of this type of key infrastructure is vital to the sustainable delivery of housing amongst many other developments and the Bill should take care to allow for these industries to support one another.

3. Do the proposals in the 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?

The inclusion of more strategic detail within the NPF is welcomed in principle and SP Energy Networks are of the opinion that this change would aid in streamlining policy, whilst providing appropriate direction to consenting authorities. The detail of how this comes forward will be crucial to the success of this approach. SP Energy Networks are keen to see that in removing this layer of policy control, national, or indeed regional priorities, are considered and addressed in a consistent manner within LDP’s. It will be essential that national priorities are not ignored or overlooked, particularly during any transitional phase.

Delivery of essential infrastructure and operation of that infrastructure is a continuous process. Any change to regional working between local authorities needs to keep
pace. SP Energy Networks would welcome assurances that there will be no lag in
decision making as local authorities adapt.

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 focused 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?

SP Energy Networks welcomes the change from 5 year revision cycles to maximum
10 year cycles for LDPs, as this provides greater certainty to our business, given the
length of time necessary to deliver large transmission projects. However, there is
also a concern surrounding the flexibility for policy to adapt and change in line with
quicker technological advances – battery storage or take up of electric vehicles for
example, which will have a significant and direct impact on the way SP Energy
Networks develops and enhances the Electricity Network. SP Energy Networks
would be keen to understand the detail of the process for amending a LDP, as this
does not appear to be explained fully in the Bill. This is an important point, as without
being able to suitably amend policies expediently, the benefit of this new approach
could be lost.

SP Energy Networks would support the removal of Supplementary Planning
Guidance, with the process being streamlined to include aspects of this within LDPs.
The change of language to include the term ‘delivery’ rather than ‘action’ at Section 6
of the Bill is welcomed. This focuses on more specific measurable outcomes, which
is seen as a positive change and one which will increase clarity for business.

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

SDZs would need to be flexible enough to allow delivery of energy network
infrastructure, particularly if the delivery of new homes or for that matter any other
type of development are to be enabled. The ability to include conditions as part of a
SDZ would assist in this respect.

There is potential for SDZs to act as constraints to the siting of essential
infrastructure. For this reason SP Energy Networks would be keen to understand
how and where SDZs would be monitored and how adoption of such would be
considered against existing development proposals. Consistent methods of recording
such areas would be welcomed by SP Energy Networks in order that these can be
considered at an early stage of any development. Clarity on this and also the
consultation process would be useful.

SP Energy Networks would also like to understand what consideration will be given
to existing key infrastructure within a proposed SDZ, and the opportunity for the
operators of that infrastructure to participate in the consultation process. It is
important that infrastructure operators’ ability to continue to operate the existing
Electricity Network in an co-ordinated and economical manner for the benefit of the
electricity consumer is given due consideration.
When mapping constraints at an early stage of an overhead line project, for example, it is key to understand what constraints exist. Alterations to SDZs or the adoption of new SDZ’s could result in conflict with an advanced programme of works, or could be used as a lever to commercially frustrate the delivery of infrastructure. SP Energy Networks would like to understand how to minimise or avoid this type of occurrence and would therefore seek further guidance on how SDZs can be centrally monitored. Consultation on such matters will be essential if they are to be a success.

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?

SP Energy Networks are of the view that community engagement is essential to a successful planning system. This engagement must be as early as possible in the development cycle. Communities should have the ability to influence the LDP’s which will shape the areas in which they live. Engagement cannot become a process which delays or disrupts development otherwise trust in this process will be lost. On balance the changes within the Bill offer practical ways for this to take place, however SP Energy Networks would like to see some measures which arbitrate potential conflict.

Local Place Plans (LPP) will provide community bodies an avenue to influence emerging Local Development Plans and it is understood that these LPP must accord with existing policy. SP Energy Networks is supportive of any such efforts to increase and broaden community involvement. SP Energy Networks are of the view that the Bill should provide further advice on the weight to be attributed to LPP, for instance where a LDP is about to be replaced and a new LPP is put forward by a community body.

Understanding how the arbitration process would work if there is a fundamental disagreement between a community group and a local authority is also very important. If the possibility of judicial review exists in this context then it is important to understand how this will impact on existing policy. Any steps that can be taken to avoid or remove delays caused in this way would be welcomed.

The Bill requires LPPs to ‘have regard’ to LDPs and the NPF. SP Energy Networks would like to understand whether LDPs will include a section setting out how it has taken account of LPPs. This would seem to offer community bodies clarity on how their views have been addressed and reduce the likelihood of conflict with local authorities.

SP Energy Networks would encourage further consideration of how often amendments can be made to an approved LDP. It appears possible at present for multiple LPPs to be submitted consecutively, which could lead to confusion and an amelioration of policy. This has the potential to undermine the positive aspects of a 10 year lifespan for a LDP if misused.
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 could these provisions be improved?

Enforcement should exist to control and rectify cases of unacceptable development, that development which would not otherwise gain consent. It is essential that the Bill supports appropriate deployment of enforcement powers in order that they are used responsibly.

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?

SP Energy Networks as a provider and operator of essential infrastructure should be exempt from any such levy. A levy being applied to any such development would unacceptably penalise the electricity consumer and would impact the deployment of essential infrastructure.

Any levy should not allow for dual charging of developers, i.e payment through a S.75 agreement. The two processes and requirements should be distinct from one another. This needs to be explicit in the Bill and in the Levy regulations.

The Levy regulations will be useful, as they can provide certainty for developers prior to submission of an application and thus allowing a clearer understanding of likely project costs, which S.75 agreement negotiations by their nature don’t or can’t always provide at the outset. Having the Levy regulations set at a national level is useful, as it provides consistency across the country. In England the differing regulations-supplementary guidance set by all local authorities creates an inconsistent approach, which can complicate matters, especially for cross boundary developments. It is hoped that the use of the Levy will see less complicated and onerous S.75 discussions and agreements, freeing up time and resources for all involved. SP Energy Networks view this as an obvious benefit of the Levy process.

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?

Training is seen as a positive step and measures to improve outcomes in the planning process are fully supported. The process of training needs to be formalised to ensure that training is consistent across local authority areas, decision making is not delayed where members change, particularly during an election year and that previous decisions are not prejudiced if it is shown that a decision has been taken by a councillor who had not received training.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?
SP Energy Networks welcome the monitoring process as proposed and feel that this is an appropriate step to ensure that the quality of decision making is upheld and strengthened to align with the spirit of the Bill.

SP Energy Networks would request that recommendations for improvement should be included in the reports and also sharing of good practice and that this information should be publicly available. It would appear logical to track the recommendations up to the next assessment period to understand how these are implemented.

Changing the culture of planning authorities to enable development and add value is something which SP Energy Networks strongly support. The Bill is right to take this approach but must balance the need for performance improvements in such a way as to encourage planners to engage with this cultural change, as to do otherwise is likely to have the opposite effect. SP Energy Networks is open to working with local authorities in a positive way to help deliver any such change.

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?

SP Energy Networks is of the opinion that fees should be consistent across local authorities and should be linked to performance. We would encourage the breakdown of fees to be publicly available to allow developers to understand what they are receiving for the service provided by the local authority. Fees should be monitored annually by an appointed person and on a rolling basis.

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

SP Energy Networks feel that it would be useful to include wording within the Bill to specifically state that local planning authorities should ‘seek to enable development’. This would act as a legislative measure to help evolve the approach of local authority planners, in much the same way as the Planning Act 2008 (England and Wales) included a requirement for ‘Good Design’ (para 183).