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 large scale energy generation and energy network infrastructure projects, ScottishPower has considerable experience of working with Scotland’s planning system. This response is on behalf of the ScottishPower group which includes our thermal, hydro and renewable generation and networks businesses. Our networks business, SP Energy Networks (SPEN), is also responding from the perspective of the regulated network activities in Scotland.

We are supportive of proposals which provide a clear and consistent approach to planning across Scotland, reduce bureaucracy and deliver greater emphasis on outcomes and delivery – while encouraging community engagement at the earliest opportunity and protecting the environment. We believe that the proposals in the Planning (Scotland) Bill can achieve this. 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, the revised NPF and planning system must be explicit in how the delivery of the Climate Change Plan, new Climate Change Bill and Scottish Energy Strategy will be facilitated.

On the proposals for an Infrastructure Levy, we agree with the Scottish Government that the Community Investment Levy (CIL), operational in England and Wales, offers a good starting point for developing Scotland’s own Levy. We believe that, like the CIL, the scope of the Levy should be charged on buildings occupied by people, so as to associate the levy better with its beneficiaries. We welcome the Bill’s proposals that energy infrastructure could be a recipient of the proposed Infrastructure Levy. Significant and ongoing investment in low carbon generation and infrastructure will be essential in supporting Scotland’s transition to a low, carbon economy, by powering Scotland’s homes and businesses with low carbon and renewable energy.

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,

Rupert Steele
Director of Regulation
ScottishPower Response to Consultation Questions

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?

Yes, we are strongly of the view that the proposals within the draft Planning (Scotland) Bill will produce a planning system which sets a framework for development to take place, whilst effectively balancing the views of communities and protection of the built and natural environment. We are supportive of any proposals which provide a clear and consistent approach to planning across Scotland, reduce bureaucracy and deliver a greater emphasis on outcomes and delivery. We believe that the proposals in the Bill can achieve this.

We note that revision of the National Planning Framework (NPF) is to commence this year. We welcome the strong recognition within the Bill of the importance of the national development priorities in supporting sustainable development, as set out in the NPF and Scottish Planning Policy (SPP). Once finalised, it will be fundamental to the operation of the revised planning system that the revised SPP is fully integrated into the NPF, and we strongly support the NPF forming part of the development plan, ensuring that the national priorities of the NPF are 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 and facilitating Scotland’s transition to a low carbon economy, the revised NPF must be explicit in how it will facilitate delivery of the forthcoming Climate Change Plan and the Scottish Energy Strategy.

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?

Others are better placed to judge how effective the Bill will be in promoting new house building. As new housing is developed, essential infrastructure including electricity (and gas) networks must be in place and operational in good time to support the developments. The planning system must therefore allow for consideration of the development of supporting infrastructure, at the same time as it looks to further increase housebuilding.

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?

We welcome a more streamlined approach to plan making and agree with the proposals to simplify the stages involved in plan preparation. We also support the appropriate pooling of resources in cases where local planning authorities can work together, in regional partnerships, particularly where there are development
constraints or where developments, like onshore windfarms, straddle a number of adjacent local authorities. The inclusion of the NPF as a component part of the development plan and the requirement for an Evidence Report to be prepared for the LDP ensures a framework for regional planning is sufficiently maintained. Given the pace of technology development in the electricity industry, from our perspective, we would recommend that the NPF is reviewed every 5 years.

Given the greater emphasis on early stage community engagement in the Local Development Plan (LDP) and the intention to align more closely with wider national priorities, set out within the NDF and the SPP, we do not consider that further changes are needed to improve planning at the regional level, provided that the LDP reflects the NPF. This is on the provision that the proposals for regional partnership working are clear in terms of the aims and objectives, and are adequately supported and resourced. It will also be important that regional planning and associated development plans provide clear focus and direction which should be taken into consideration in the preparation of LDPs.

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?

As a large scale developer, effective community engagement is at the heart of our approach to planning and development issues. We are of the opinion that the changes proposed for producing LDPs meet the needs of both developers and communities.

We consider that the new approach to LDP preparation which removes the requirement to prepare, publish and consult upon the Main Issues Report, will help streamline the plan making process and by ‘front-loading’ the plan preparation process, will facilitate local community input into proposals at the earliest stage of development. This approach is beneficial for developers and local communities alike. It will be important to ensure that as these LDPs develop, they reflect wider Scottish planning priorities, such as infrastructure priorities and national developments identified in the new NPF format. Therefore the new requirement for planning authorities to prepare a robust Evidence Plan, which is used as the basis for an early ‘gatecheck’ of the LDP, is supported.

We do however have concerns about the proposed 10 year review cycle for LDPs. Dynamic sectors, such as renewable energy, which can evolve more rapidly than other more established sectors, could become outdated very quickly. It is important that LDPs are future-proofed and take account of future developments and emerging technologies. We therefore recommend reconsideration of the 10 year review period and welcome provisions within the Bill, which allow for updating or reviewing LDPs within the proposed review cycle. It is important that plans which become obsolete, or are no longer fit for purpose, are reviewed particularly where a new NPF has been published or new national development priorities are introduced. This is particularly important given the Bill intends to repeal the current provisions for supplementary
planning guidance. We also support the strengthening of Delivery Programmes and the involvement of Key Agencies in improving infrastructure investment and delivery.

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

We can see the value of Simplified Development Zones (SDZs) which balance the need for development alongside community and environmental interests, in relation to housing development. However, a SDZ approach is not appropriate for energy infrastructure, particularly renewables, which must be sited according to resource availability, alongside technical and environmental constraints. The current development management system and spatial policy framework adequately addresses the balance for energy development with community and environmental interests.

Simplified Development Zones (SDZs) will need to be flexible enough to allow delivery of energy generation and network infrastructure, particularly if the delivery of new homes or other types of development are to be enabled. The ability to include conditions as part of a SDZ would assist in this respect. There is a risk that SDZs could act as a constraint to the siting of essential energy infrastructure. We are therefore keen to understand from the Scottish Government, 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 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.

We 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 energy infrastructure operators’ ability to continue to operate their assets in a co-ordinated and economical manner, for the benefit of the electricity consumer, is given due consideration. Alterations to SDZs or the adoption of new SDZ’s could result in conflicts with the siting of existing infrastructure, an advanced programme of works, or could be used as a lever to commercially frustrate the delivery of infrastructure. We are keen 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?

We are strongly of the view that the proposals within the Planning (Scotland) Bill place communities at the heart of the planning process. As mentioned above, we consider that the revised arrangements for the production of LDPs will allow input from the local community at the earliest possible stage of developments. It will be
important to ensure that whilst Local Place Plans (LPPs) can influence LDPs, they shouldn’t be in any way contradictory to the relevant LDP or wider national priorities. We agree with the Scottish Government that wider national priorities, such as infrastructure priorities and national developments, identified in the NPF and SPP are also translated into local development planning. It is also appropriate that LPPs should be afforded the same scrutiny and examination as LDPs.

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?

ScottishPower hopes that the proposed changes to enforcement, including increased level of fines and recovery of expenses, will encourage local authorities to focus their resources on activities which add value and deliver effective, timely outcomes in the planning process.

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?

We accept that the Scottish Government has taken the decision to introduce an Infrastructure Levy in Scotland, as set out in the provisions of this Bill. In designing this new measure, it is important that the Scottish Government embarks on an extensive public consultation exercise on the scope and objectives of the proposed Levy.

As the proposed Infrastructure Levy may (as highlighted in the Scottish Government's earlier consultation document) look to build on the Community Infrastructure Levy (CIL) in England and Wales, we are strongly of the view that the scope of the Levy should be charged on buildings occupied by people, so as to associate the levy better with its beneficiaries. Accordingly, the buildings and structures used for electricity generation and networks should be outside the scope of the Levy, as currently happens within the CIL in England and Wales. We agree with the Scottish Government that the CIL offers a good starting point in which the SG can consider developing its own Infrastructure Levy, taking into account the lessons learned from the operation of the CIL, particularly in terms of complexity and enforcement.

We welcome the proposal in the Bill at Sections 27-30 that energy infrastructure could be a recipient of the Infrastructure Levy. Given the Scottish Government’s climate change targets, significant and ongoing investment in low carbon generation and infrastructure will be essential to deliver these targets, powering Scotland’s homes and businesses with low carbon and renewable energy.
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?

Yes, we are fully supportive of the requirement for local government councillors to be trained in planning matters, prior to becoming involved in planning decision making. However, it is important that this does not adversely impact on the timely operation of the local planning system. We suggest that new councillors are offered the appropriate training as soon as possible, within 4-8 weeks, of being elected so as not to delay pending planning decisions.

It is also important to ensure that local government councillors make decisions which are in line with the training they have received, and it would be useful to monitor planning committee minutes/decisions to ensure that they are aligned with the outcomes that would be expected. This could form part of the planning authority’s annual report on performance of functions. For reasons of consistency, it is also important that the same training programme is offered to councillors across all local authorities.

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

We would welcome measures from the Scottish Government to encourage greater accessibility, transparency and accountability from planning authorities. This should also include greater accessibility and accountability in the leadership of the planning profession. Experienced Planning Officers should be empowered to provide clear guidance and fulfil their role as delegated decision makers. Leadership of the planning profession should also exhibit a more rounded range of skills and experience, including an understanding of the industries which they are making planning decisions.

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?

We are strongly supportive of a planning system which is focused on supporting sustainable development, adds value and is sufficiently resourced. Whilst we welcome efforts to improve skills and resourcing, we would urge caution about increasing fees or introducing additional charging. We recognise that resourcing for statutory bodies may be stretched but it is important that costs to developers are proportionate and that advice is timely, concise and robust. We therefore ask that consideration is given to how improvements to service will be achieved, via any increase in planning fees, and that these fees are passed on to planning authorities and statutory advisors to ensure a high quality service is delivered. Previous experience has been that an increase in fees has not fed through to improvements in local planning authority performance.
We think it is important that fees are standardised across Scotland and we would therefore not wish to see scenarios whereby some local authorities charge for services, whilst others do not. For developers, like ourselves, operating across Scotland, this would simply add more complexity to an already complex planning system. We consider it appropriate that the Scottish Government continues to set the planning fees across Scotland so as to promote a level playing field for developers. Any proposed increase in fees can also be considered in the context of the current drivers to reduce the overall levelised cost of energy of renewables, given the Scottish Government’s climate change ambitions.

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

We note the Bill intends to make provision for changing the duration of a planning permission. While we support measures to clearly define expiry dates for planning permissions by way of a condition, rather than a direction, there should be sufficient flexibility to ensure the default date of three years can be extended in particular instances. This is particularly relevant for consents issued under legislation other than the Planning Act, such as the Electricity Act 1989, where consent under Section 36/37 can also be accompanied by Scottish Ministers directing that planning permission is deemed to be granted.

In many cases such developments are of a large and complex nature, and there is a need to strike a balance between the time it may take to put in place the necessary pre-construction measures required, for example, tendering, obtaining the necessary financing, final design and technology of the development and minimising the impact of any period of uncertainty for those who may be affected by the construction works. ScottishPower therefore supports there being provision within Section 17 of the Bill to ensure that the duration of planning permission can be extended in particular circumstances for large and complex developments, many of which will require consents/licenses under other legislation.

We welcome the introduction of the power to make regulations where pre-application consultation (PAC) is not required or to specify the content of such reports. However, we would want to ensure that such Regulations are clear and streamline the consultation process in an effective manner that results in the delivery of development with the appropriate level of community engagement, to avoid unnecessary burdens on development.