



# **Investing in Planning: A consultation on resourcing Scotland's planning system**

May 2024

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## About us

Solar Energy Scotland is the trusted industry trade body for solar energy in Scotland. Alongside Solar Energy UK, we represent a thriving member-led community of businesses and associates, ranging from ambitious and innovative SMEs to global brands.

Together with our members, Solar Energy Scotland works to shape policy to realise the potential of solar and energy storage in Scotland, and to work with Government and all stakeholders to deliver on climate change obligations and net zero greenhouse gas emissions by 2045.

## Respondent details

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  - ♦ **Would you like this response to remain confidential:** No
  - ♦ **Submission date:** 31 May 2024
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## Introduction (TBF)

Solar Energy UK welcome the opportunity to respond to the Scottish Governments consultation on resourcing Scotland's planning system.

Local Authorities will and must play a critical role in the delivery of net zero by 2045 and in reaching a minimum of 4GW of solar deployment by 2030. The planning framework is a key area of regulation that can support these goals. However, the planning system is significantly under resourced which is leading to significant delays in consenting projects.

Planning fees continue to rise for developers, but the level of service does not directly correlate. Thank you for taking our comments into consideration.

### **Questions 1: Which assessments might benefit from improved proportionality?**

We welcome the recognition within the consultation on the need to improve proportionality within the planning system. All assessments would benefit from improved proportionality. In addition to the key areas listed, we call for further engagement with industry and wider stakeholders to ensure all assessments are considered and addressed. For example, a more proportionate and consistent approach to trial trenching/archaeology is needed for solar projects.

We welcome the creation of a working group to explore more proportionate approaches in greater depth. We strongly recommend that the working group be populated with experts from across industries, government departments (local and national level) and wider stakeholders, ensuring that users of the system (developers / applicants) are well represented. Solar Energy Scotland and our members would be well placed to sit on the working group.

Improving basic and consistent understanding of solar and storage technologies across the planning regime will be essential. Sharing best practice can help to support that understanding. Previously, the solar industry has run workshops and training opportunities for planning inspectorates and government planning departments to develop understanding of the solar and storage industry at large. Solar Energy Scotland stands ready to work with Scottish Government to promote greater understanding of solar technologies through whatever platform is most convenient. Additionally, members have individually expressed their willingness to share their expertise with those working in the planning regime.

In complement, Solar Energy UK is currently developing factsheets for Local Planning Authorities (LPAs) and those operating in the wider planning system on areas such as archaeology, biodiversity, agriculture and land use and site selection (and grid) which we

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hope to be useful in supporting a more proportionate approach to the consideration of solar farms within the planning system. We intend to share these with Government and Local Authorities in summer 2024.

**Question 2: To what extent do you agree that processing agreements are an effective tool for creating certainty in planning decision making timescales? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

Partially disagree.

In principle, we agree that processing agreements are an effective tool to improve certainty in planning decision making timescales. Whilst there is support for processing agreements from the industry, many of our members have had mixed experiences and have reported that the agreement are rarely adhered to by the local authorities.

**Question 3: Do you consider that current resourcing issues are impacting on the use of processing agreements? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We would partially agree. Many Local Authorities do not have the time or resources to engage in the bureaucracy of delivering a processing agreement therefore we ask that any guidance produced is concise and promotes as streamlined a process as possible. This could be supported by providing a government approved contractor list which would take away some of the administrative burden. Complementary to this, we recommend producing a template for processing agreements that outline a standard project management framework for handling major solar applications, this is likely to improve uptake and confidence in delivering processing agreements.

**Question 4: Would you be prepared to pay a discretionary fee to enter into a processing agreement? Yes | No view | No Please explain your view**

We would disagree.

As discussed in our response to question 2, processing agreements are rarely adhered to by all parties therefore unless a significant improvement was seen in planning application decision making, we would strongly disagree that a discretionary fee should be paid to enter into a processing agreement.

Secondly, any fee set now or in the future, should be standardised across local authorities and the fee should be delivered directly to the planning department to increase resourcing and upskilling of staff.

### **Question 5: What additional actions can we take to improve certainty in the planning process?**

We agree that there is a need to improve certainty in the planning process. All parties, including councils and wider statutory consultees should be held accountable to meeting agreed timescales and deadlines; this should not be seen as flexible. If consultees do not respond within the specified timescale and there is no agreement of an extension from the applicant, then the consultee should forfeit their chance to provide input and engage in the decision making process.

Ground mounted solar in Scotland is still an emerging market, with some local authorities more experienced with the technology than others; we recognise that a Local Planning Hub could be a mechanism to improving certainty and speed of decision making. The Planning Hub could help to speed up consenting, where LPAs have not managed to determine the application or made a response within statutory timescales. In this situation, a central planning hub would automatically receive the application and would recommend whether it be approved or refused. This recommendation would then come back to the planning committee for a decision.

We are concerned that one of the contributing issues to poor performance in the planning system may be the lack of ring fencing for planning fee income that is received by the Local Authority. We have concerns that the income generated from planning application fees may be used to subsidise shortfalls in other departments, and may be contributing to the inadequate resourcing of planning departments, and consequent delays to planning decisions. Local Authorities should ringfence income from planning fees as a mechanism to resource, retain and upskill the current workforce within planning departments.

### **Question 6: Do you have further ideas on opportunities for streamlining, alignment or standardization?**

Our members have reported that there is a particular need for Local Planning Authorities to improve resourcing with regards to renewable energy expertise. We ask that members of local planning committees are sufficiently educated on the specifics of planning applications e.g. confident in their understanding of solar technology, of material planning issues, of what the consequences could be if they overturn positive planning officer recommendations and of information on the appeal process.

We expand on the additional skills needed in our response to question 7.

### **Question 7: Are there any skills actions which you think should be prioritised?**

There is a specific shortfall in expertise within ecology and biodiversity, landscape, and archaeology. This is particularly concerning given the National Planning Framework 4's

requirements for developments to deliver positive effects for biodiversity. Given the current skills gap, it is likely that this will cause additional pressure on Local Planning Authorities who will need to outsource expertise. We strongly recommend that Scottish Government look into additional financing mechanisms to ensure Local Authorities have adequate resources needed to implement NPF4 policies and make informed decisions on solar planning applications.

More broadly, we suggest that Government should look to increase skills within the planning sector by funding planning apprenticeships, or university studentships within Local Planning Authorities. We strongly support the RTPI and the Scottish Governments proposal for a planning apprenticeship or practice-based planning degree as this will both support new entrants and individuals entering a new career path with 'on the job' training allowing them to get going.

We are aware that there is often a high turnover of those working within the planning sector, therefore Scottish Government should double down on efforts to make Local Authorities a more attractive, and highly regarded place to work, with clear career development pathways. This could be supported by providing appropriate compensation (salaries) that are truly reflective of the level of responsibility that comes with the role.

#### **Question 8: Are there any skills actions not identified which you think would make a significant impact?**

We recognise that there is a gap between nationally focused planners who develop and drive policy over local authorities who deal with the practical realities of planning preparedness and processing of applications. At a local level, different skills are required such as project management and negotiation. Further training should be provided to equip planners working in Local Authorities with the skills needed to provide a good and consistent service.

A significant issue is the lack of guidance and supporting information for certain policies within NPF4. Such guidance would help ensure a consistent approach to development management across Scotland. The effectiveness of NPF4 will be determined not by the quality of its content, but by the ability of local planning authorities (LPAs) to fully implement its policies. There is a particular lack of guidance on topics like biodiversity and the maximisation of net economic impacts. Additionally, there needs to be a focus on providing appropriate skills and training for planners to implement the various national policy provisions effectively. Adequate resourcing will be crucial for the successful implementation of NPF4 policies and their practical impact on the ground.

**Question 9: Do you think that the concept of a 'planning hub', modelled on the Building Standards Hub would support authorities and deliver improvement in the system? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We partially agree.

Planners would greatly benefit from a resource hub that offers technical information and updates on new technologies. As discussed in our response to question 2, planners are often generalists and would benefit from having a resource to use to provide advice on renewable energy applications.

We would recommend that the Planning Hub be a central resource with experts specifically for renewable energy applications. Local Authorities could lean on this resource when they are unsure on how to move forwards with an application. The Planning Hub would be most useful filled with a bank of experts, rather than a bank of information.

**Question 10: Are there other ways a hub could add value and provide support in the short and longer term?**

In the short term, greater access to industry experts could support LPAs to make informed decisions on planning applications.

**Question 11: Which of the options do you think is most suitable, and why? i. Within Scottish Government ii. Within public organisation iii. Within a host authority iv. Other v. No view**

No comment

**Question 12: How do you think a Planning Hub could be resourced?**

We would suggest we strongly resist private money being committed to the Planning hub – if the Planning Hub is being used to fill skill shortages at local authorities then money should be taken from the existing application fees.

If the cost of preparing and submitting a planning application is too high, it will stifle renewable energy development opportunities.

**Question 13: Do you agree that planning fees should increase annually in line with inflation? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We do not support annually adjusting fees in line with inflation principally because unlike speculative residential developments, utility-scale solar projects are often initiated several years prior to planning applications being submitted (and the period between these two

stages is getting longer given grid connection constraints). We believe that such a change might deter some solar projects coming forward at a time when we should be maximising solar deployment (and other renewable energy installations) to reach our climate targets and commitments.

**Question 14: Is a calculation based on the 12 month Consumer Price Index the most appropriate mechanism? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We agree that the Consumer Price Index would be an appropriate mechanism for structuring planning fees.

**Question 15: Should an annual inflationary increase apply to: i. Individual fees and increments ii. Individual fees, increments and maximums iii. No view**

No comment.

**Question 16: What would be your preferred approach to how planning fees are set in the future?**

Planning fees should continue to be set at a nationwide level. We strongly oppose allowing each local authority to set its own planning fees as this could discourage development in certain areas and further restrict projects in locations already facing limitations, such as grid accessibility.

**Question 17: Are there key principles which should be set out in the event that fee setting powers are devolved to planning authorities?**

No comment

**Question 18: What other processes that support the determination of a planning application could authorities be given powers to charge at their discretion?**

We do not feel that it is appropriate to introduce additional charges for basic services that contribute to good planning practices. We disagree with the requirement to pay for pre-application consultations; especially when results have been so variable.

Further, we disagree with the proposal to extend fees to appeals. It is likely that this would restrict the amount of appeals, with many not being able to afford the fees. This could grossly impact the amount of renewable energy projects built and impact Scotland's ability to reach net zero by 2045.

**Question 19: Do think the circumstances where a refund can be requested is set out as part of any published information regarding the introduction of a discretionary charge?**



We believe that applicants who do not receive the service they have paid for should be entitled to a refund.

**Question 20: Do you agree with the principle that authorities should have discretionary powers to increase fees for a proposal on an unallocated site within the development plan? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

No comment

**Question 21: Do you agree that planning authorities should be able to recoup the costs of preparing a Masterplan Consent Area through discretionary charging? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

No response.

**Question 22: Do you agree with the types of appeals that should incur a fee? Yes | no view | No Please explain your view**

The right of appeal compensates landowners for the loss of development rights; we disagree that this should change. The ability to appeal plays a significant part in the planning system and should be retained. Any changes to the fee structure could result in a two tiered planning system, dividing those who can afford to appeal from those who are unable to.

**Question 23: Do you agree that setting the fee for applying to appeal the refusal of planning permission (to either DPEA or the planning authority) is set as a percentage of the original planning application fee? Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We strongly disagree with setting a fee for applying to appeal. Setting a planning fee based on the percentage of the original planning application fee would be substantial for larger projects and could deter renewable energy projects from being built. Moreover, the size of the project does not determine the complexities or amount of work that is needed when a project goes through appeal.

**Question 24: If a percentage of fee approach to appeal charging was considered most appropriate, what level do you consider would be most appropriate to reflect volume of work by DPEA or the LRB? 10% | 20% | 30% | 40% | No view | Other Please explain your view**

No comment.

**Question 25: Do you agree that an authority should consider waiving or reducing an appeal fee where they have offered such a waiver on the related planning application?**

**Strongly agree | Partially agree | No view | Partially disagree | Strongly disagree Please explain your view**

We request further information on what Scottish Government would consider as appropriate for waving a fee.

**Question 26: Do you have views on how a service charge for applying for planning permission or a building warrant online could be applied?**

We disagree that there should be a separate fee applied. To streamline the processes, all fees should be considered under the overall application fee.

**Question 27: What other options are there to resource the operation and improvement of the Development service?**

No response.

**Question 28: Should the current threshold of 50MW for applications for electricity generation which are to be determined by authorities be altered? Yes | No view | No Please explain your view**

Solar Energy UK recommends retaining the current threshold of 50MW for electricity generation, with the exception of solar farms. Increasing the scope for planning authorities to determine more applications could further constrain LPAs and delay project lead times. Our view is that, in general, local planning authorities do not have the capacity to take on the full cost of determining more applications.

For developers, the Section 36/DCO process provides much greater flexibility and certainty, rather than being subject to decision-making at a local level. The Energy Consent Units also possess the relevant expertise required to handle such applications, providing confidence in the process.

Our view is that LPAs should be funded through alternative means, such as ensuring planning application fees are ringfenced for the resources of planning departments within Local Authorities.

The exception to this threshold rule relates to solar farms. Very few solar farms are built in the range of 50 – 200 MW, due to the additional costs of the DCO process. We recommend that an increase to the 50 MW threshold is reviewed for the circumstances of solar generation in particular.

**Question 29: Should different thresholds apply to different types of generating stations? Yes | No view | No Please explain your view**

Yes, please see our response to question 28.

**Question 30: What would be the resource implications of increasing the threshold for the determination of applications for onshore electricity generating stations?**

We would welcome the opportunity to work more closely with Scottish Government to outline the opportunities and challenges that may arise from altering the threshold. We would also welcome further consideration of a third approach, that does not simply add workload to the existing local authorities, but creates a separate determination process suited to mid-sized projects.

**Question 31: If Scottish Government were to make a voluntary contribution equivalent to a percentage of the offshore electricity fee to authorities, what level of contribution would be appropriate to support some recovery of costs? Please provide justification for your answer.**

No response.

**Question 32: Should we introduce a new category of development for applications for hydrogen projects? If so, how should these fees be set/calculated? Yes | No view | No Please explain your view**

No response.

**Question 33: Are there different considerations for hydrogen production when compared with proposals which are concerned only with storage and distribution? Yes | No view | No Please explain your view**

No response.

**Question 34: Do you agree that the standard £100 which applies to most prior notification and approval applications is appropriate? Yes | No view | No Please explain your view**

No response.

**Question 35: Are there particular PDR classes where you think the current fee should be amended? If so, please explain why that is considered to be the case.**

No response.

**Question 36: Would a reduction of the current fee (£200 per 0.1 hectare) be an appropriate approach to resolving this issue?**

No response.

**Question 37: What would you consider to be a reasonable fee for shellfish farm applications? (Please elaborate on your answer using an average shellfish farm development (5 x 220m twin-headline longlines at 20m spacing with 30m end moorings) as an example.)**

No response.

**Question 38: Which proposal would you most like to see implemented? Please explain the reason for your answer.**

No response.

**Question 39: Do you have other comments on the cumulative impact of the proposals?**

No response.

**Question 40: Do you have other ideas to help resource the planning system? Please set out how you think the proposal could be resourced.**

No response.

**Question 41: Please provide any information on the potential impacts of our proposals to assist with preparation of the following impact assessments: Business and Regulatory Impact Assessment Equality Impact Assessment Islands Communities Impact Assessment Children's Rights and Wellbeing Impact Assessment Fairer Scotland Duty Strategic Environmental Assessment**

No response.