March 2023

Community Energy England response to Levelling-up and Regeneration Bill: reforms to national planning policy consultation

Introduction to Community Energy England

1. This is a response by Community Energy England (CEE), which represents 300+ community energy and associated organisations across England involved in the delivery of community-based energy projects that range from the generation of renewable electricity and heat, to the energy efficiency retrofit of buildings, to helping households combat fuel poverty. It is co-signed by Power to Change, Plymouth Energy Community, en10ergy, Communities for Renewables CIC, Atlantic Energy Ltd, Bishop's Castle Climate Action Group and the Othona Community, Bradwell-on-Sea, Essex

2. Our vision is of strong, well informed and capable communities, able to take advantage of their renewable energy resources and address their energy issues in a way that builds a more localised, democratic and sustainable energy system.

3. Community energy refers to the delivery of community led renewable energy, energy demand reduction and energy supply projects, whether wholly owned and/or controlled by communities or through partnership with commercial or public sector partners.

4. The overwhelming motivation of people and groups involved in community energy is to make a contribution to averting climate catastrophe, followed by a desire to bring community and social benefit.

5. We believe that these motivations should be shared by all working in the energy sector and on energy system transformation.

General comments:

6. Given the urgency of the climate emergency and the increasing failure to deliver the governments' climate targets, including decarbonising the power grid by 2035, the only appropriate solution is to *"unlock the potential of onshore wind by bringing consenting in line with other infrastructure"* as the previous government had promised[1].

7. As presently drafted, there would still be difficult hurdles in place for community and commercial wind developers. Furthermore, there is opportunity for local councils whose

[1] The Growth Plan 2022, p. 14. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1105989/CCS207_CCS0822746402-001_SECURE_HMT_Autumn_Statement_2022_BOOK_Web_Accessible.pdf

members oppose onshore wind to block it, whatever the opinion of local residents or the suitability of the area for wind.

8. The planning system should be reformed so that a key 'purpose of planning' is 'to achieve net zero as quickly as possible'. Projects that do not contribute to that goal should be at a disadvantage within the planning system. Projects that decarbonise effectively should have a presumption of permission unless they do not comply with other material considerations or are opposed by a significant proportion of local residents.

9. We note in support of the above point that the Mission Zero: Independent Review of Net Zero recommends that the government "*empower people and places to deliver. Place-based action on net zero will not only lead to more local support but will deliver better economic outcomes as well. The Review recommends:*

"Reforming the planning system at local and national level to ensure it properly supports net zero. *One of the starkest messages from hundreds of organisations and individuals is that the planning system is undermining net zero and the economic opportunities that come with it. The Review recommends wide-ranging local planning reform – from the introduction of a net zero test to a rapid review of bottlenecks in the system – to ensure that it is fully aligned with our net zero future."*[2]

10. As currently drafted, the NPPF will not bring forward many new wind projects as there is no clear pathway or guarantee that well founded projects stand a good chance at planning. This will discourage investment. Wind is essential to achieving legal decarbonisation targets and the government's own net zero power by 2035 ambitions[3]. As such it is 'undermining net zero' and is a 'bottle neck' to the market and communities delivering locally supported onshore wind; it should be reviewed and rewritten to "unlock the potential of onshore wind" as described in 6. above.

11. We agree strongly with the government that onshore renewables should be appropriately sited and locally supported.

12. We contend that the best way to ensure that is by enabling communities, where possible, to develop, own and control these assets themselves rather than to play 'host' to an external developer's project, "*in return for benefits, including lower energy bills"* as offered in the British Energy Security Strategy[4]. If community projects had a right to local supply then they could deliver this alongside the huge additional benefits accruing from community

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[2] Mission Zero: Independent Review of Net Zero, p. 12. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128689/mission-zero-independent-review.pdf

[3] Regen A Day in the Life 2035. https://www.regen.co.uk/publications/a-day-in-the-life-2035-second-edition/

[4] British Energy Security Strategy, p.18. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1069969/british-energy-security-strategy-web-accessible.pdf

ownership, which are on average 34 times more than commercial projects[5]. This is already happening via the 'complex site' derogation used by Energy Local (the subject of the only community energy case study in the Energy White Paper from 2020[6]) which the Elexon modification P441 seeks to make permanent. The Repowering London Roupell Park Energy Local Club is currently delivering energy from the community-owned solar on the roof to social housing residents who live below at 6.3p p kWh, when the average, capped price is 34p p kWh. There are other Energy Local Clubs[7] around the country delivering similar deals.

13. There are high levels of support for onshore renewables, especially among Conservative voters, including support for projects near where people live. The government's attitude tracker shows record support for renewables at 88%, with 70% supporting wind; only 12% would be unhappy with wind in their local area[8]. Other recent polling by Survation showed 74% support for onshore wind, but that support was higher than average among Conservative voters with 81% of 2019 Conservative voters supporting a renewable energy project in their area[9].

14. Polling by the Global Strategic Communications Council in November 2022[10] shows that politicians routinely mistake the general public's real view and attitudes. Conservative politicians tend to underestimate support for renewable energy and climate action. For example, Conservative MPs tend to think that the general public and particularly their own voters are opposed or strongly opposed to onshore wind, when in fact 2019 Conservative voters are strongly supportive. (from a YouGov survey in October 2022 quoted in the GSCC report).

15. A majority of rural councils are Conservative run, often by those who might be strongly motivated to 'protect the countryside' and mistakenly believe that a majority of their electorate are opposed to onshore wind.

16. The amendments, as proposed, do not 'unlock the potential of onshore wind' as the previous government had rightly planned. In fact they are a **nimbies' charter** which allows councils that do not want to allow onshore wind to block it.

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[5] Community wind in Scotland delivers on average 34 times more financial benefit to their communities than commercial projects which in Scotland are encouraged to deliver £5000 per MW installed. https://www.aquatera.co.uk/news/community-owned-wind-farms-have-paid-their-communities-34-times-more-than-commercial-counterparts

[6] Energy white paper: Powering our net zero future. https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future

[7] https://energylocal.org.uk/clubs

[8] BEIS Public Attitudes Tracker https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1123572/BEIS_PAT_Autumn_2022_Energy_Sources_and_Energy_Infrastructure.pdf

[9] https://www.renewableuk.com/news/615931/Polling-in-every-constituency-in-Britain-shows-strong-support-for-wind-farms-to-drive-down-bills.htm

[10] To be published.

17. The government should be "*making sure the planning system supports net zero and turbocharging community energy and action"* and all forms of renewable energy (particularly the cheapest) to help meet its legally binding climate targets and ambitions to decarbonise the grid by 2035, as recommended by the Net Zero Review. The imposition of hurdles, such as the requirement for a Supplementary Planning Document, adds delays at a time when we need to be mobilising and installing projects at an unprecedented and hitherto impracticable rate. So government should support, not thwart, communities and fully *"unlock the potential of onshore wind"* by removing proposed footnotes 62 and 63 completely.

Questions:

Chapter 8

Q.41: Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?

~~155.~~157. To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and maintenance, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

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[61] In line with the objectives and provisions of the Climate Change Act 2008.

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c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

1. The retention of the phrase "*plans should*" allows the provision of a positive strategy to be optional. This must read *"plans must:"*

2. We support the encouragement of repowering in the proposed 157.a. The distinction between repowering and life extensions should be acknowledged, however. Therefore, we recommend amending the wording within 157.a. to "...and their future repowering, and life extension…" as used in 160.c..

3. There is no definition of the phrase *"addressed satisfactorily"* in the proposed 157.a. Satisfaction is subjective and is potentially a spectrum from fully satisfied to dissatisfied. If a planner or planning committee is even slightly unsatisfied with how something has been addressed, they can say that it has not been *"addressed satisfactorily"*. A local authority with a majority of elected members opposing onshore wind (and a significant number of rural authorities which are eminently suitable for wind may have such a majority) can easily remain 'unsatisfied', even in the face of material considerations having been met and significant community support for a project.

4. Here and in the proposed footnote 63 below are the only places *'satisfactorily'* is used in the NPPF.

5. We support the ambitions of paragraph b). The absence of 'suitable areas' being identified in a Local Plan should never be taken to mean that the area is unsuitable. It is not necessarily the job of Planning Authorities to designate areas or sites as suitable for purposes, nor in many cases will they have the resources or skills. As mentioned in q43.3 below it is better for the community or the developer to identify the opportunities.

6. This should come from Local Area Energy Planning (including retrofit and other decarbonisation relevant Planning such as Transport). Resource is better spent supporting projects these processes identify than in seeking to reemply this detailed, expert planning process.

7. We therefore propose that the paragraph should read: "Identify suitable sites for renewable and low carbon electricity and heat sources as part of a holistic Local Area Energy Plan, involving borough residents and local community groups and integrating with National Infrastructure planning to get energy from where it is sourced to where it is needed."

8. We support the ambitions of paragraph c)

Q.42: Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?

~~158.~~160. When determining planning applications[62] for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;

b) approve the application if its impacts are (or can be made) acceptable[63]. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and

c) approve an application for the repowering and life-extension of existing renewables sites, where its impacts are or can be made acceptable. The impacts of repowered and life-extended sites should be considered for the purposes of this policy from the baseline existing on the site.

1. We need to be generating much more renewable energy close to centres of population and energy demand (ie particularly in England and the South East) rather than only in remote and depopulated places. Transmission losses and grid reinforcement cost mean that moving energy long distances is costly in carbon and money terms and more likely to fail because grid connections are not available to connect remote generation to urban demand. We need a balance of technologies appropriately sited and distributed across the country.

2. The government and the planning system should prioritise achieving net zero (see 8. and following above), hugely increasing onshore renewable generation in England and the speedy implementation of Smart Local Energy Systems and Local Area Energy Planning to which community involvement and community energy enterprise will be key. This must happen alongside National Infrastructure planning to enable new renewable generation to be connected and when appropriate and necessary, energy to be moved from where it is being generated to where it needs to be used.

3. The word *"acceptable"* in paragraph 160 b) and c) is, like 'satisfactorily', a subjective word that lacks definition. *"Made acceptable"* to whom, according to what criteria? Some will never accept it on any evidence or terms. (*see further argument in the box at the foot of this question).

4. Additionally in paragraph b) the word *'criteria'* is unspecific as to which criteria. Must applications for projects outside areas designated as *"suitable areas"* meet the criteria set by the local authority in judging suitability for renewable energy? These criteria may have been unwarrantedly stringent, such as that they should be areas below a certain population density,

or out of sight from certain places, and so exclude future development which is low impact and supported by communities.

5. It should be the responsibility of developers and community groups to show that the **site** is suitable for renewable energy generation, in terms of availability of the appropriate resource and community support. Expecting local authorities to carry out this work will cause delays to consenting and hinder progress to achieving net zero targets. Ideally there should be national guidance on what criteria can be considered material to identifying whether an area is suitable for renewable energy development. Guidance must be flexible enough and not allow local authorities to impose restrictions that will inappropriately exclude development. In some cases, a sub-optimal resource may be worth exploiting if it usefully supplies a supportive local demand.

6. We support the encouragement of repowering in the proposed 160.c. including that repowering judgements should use the baseline of the existing wind site.

7. However we note that 160.c. offers more unqualified support for repowering than the proposed amendments to the NPPF offer to new projects, which is unfair and counterproductive.

8. All local authorities must be required to play their part in UK decarbonisation and in providing renewable resources appropriate to their area and its potential.

9. The UK's national net zero targets and Nationally Determined Contribution (NDC), as submitted to the UNFCCC, should be divided among local authorities to become their Locally Determined Contribution. This ensures each local authority makes an appropriate and proportionate contribution to the national contribution,, delivering the NDC according to the opportunities and needs of that area. The Tyndall Centre Local Authority Carbon Budget Tool attempts to do this. Local Authorities are free to, and should be encouraged and incentivised to exceed these LDCs.

10. Those areas with high wind potential should have a duty to maximise the appropriate harnessing of that resource and certainly should not be able to duck out of that responsibility. Those with water energy potential should deliver from that. Those with high solar incidence should be encouraged to realise its potential. We need a balance of technologies appropriately sited *and* distributed across the country. Some areas can contribute more in terms of generation and should be expected to plan to do that in their local development plans.

*The fatal fluidity of the word "acceptable" is illustrated by its use in para 220 of the NPPF.

220. Planning permission should not be granted for the extraction of coal unless:

*a) the proposal is **environmentally acceptable,** or can be made so by planning conditions or obligations; or*

b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).

The IEA has said we must exploit no new fossil fuel resources to have a chance of remaining below 1.5C. If we breach 1.5C we will trigger runaway feedbacks that will mean ever increasing heating, very quickly reaching catastrophic levels, with no chance of stabilising the climate to allow a chance for the continued survival of human civilisation and indeed complex life on the planet. In those terms the new extraction of coal can never be 'acceptable' or 'made acceptable' unless you accept suicide. If you agree it can never be 'environmentally acceptable' because it endangers the survival of the environment, no benefit can outweigh the survival of the environment within which that benefit must be enjoyed.

So paragraph 220 should read simply: Planning permission should not be granted for the extraction of coal.

Q.43: Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework?

~~158.~~160. When determining planning applications[62] for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;

b) approve the application if its impacts are (or can be made) acceptable[63]. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and

c) approve an application for the repowering and life-extension of existing renewables sites, where its impacts are or can be made acceptable. The impacts of repowered and life-extended sites should be considered for the purposes of this policy from the baseline existing on the site.

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[62] Wind energy development involving one or more turbines can be granted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders, if it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

[63] Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in either the development plan, or a supplementary planning document identifies an area as suitable for wind energy development (where the development plan includes policy on supporting renewable energy); and, following consultation it can be demonstrated that the planning impacts identified by the affected local community have been ~~fully~~ satisfactorily addressed and the proposal has ~~their backing~~ community support.

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1. We recommend the complete removal of proposed footnotes 62 and 63.
2. We welcome the removal of the requirement for designation in the Local Plan as an area suitable for wind energy development which previously deterred many developers and community energy organisations from planning wind projects
3. However, whilst the requirement for a Supplementary Planning Document (SPD) to so designate the area will allow areas to be designated outside the normal 5 year cycle of Local Plan, it should not be necessary to designate these areas.
4. It should be the responsibility of the developer, who is experienced at site assessments and can include other considerations such as potential for connection to the grid, to demonstrate that **a proposed site, rather than an 'area'** is suitable for wind development.

5. Creating an SPD is so deep in the local authority planning system that it does not present a pathway for communities or developers to proactively bring their projects to planning. Compared with a planning application for a diesel peaking plant, for example, it will be more complicated and time consuming, and will require an additional stage of consultation and bureaucracy. A local authority that opposes wind development or that does not have resources or relevant experience may not be cooperative in creating the SPD.

6. Additionally SPDs are due to be replaced by Supplementary Plans in late 2024, about which there is no available detail. This is likely to cause further delays while Planning Officers understand the implication of the change, so adding to uncertainty for developers, communities and investors.

7. In the proposed footnote 63, the imposition of the condition *"(where the development plan includes policy on supporting renewable energy)"* is unhelpful. Some local authorities opposed to wind development may have refrained from including policy on supporting renewable energy to avoid offering encouragement to onshore wind. **This condition should be removed**

8. As mentioned above, all local authorities should be required to deliver their share of renewable energy provision to meet national net zero targets, so should be mandated to produce Local Plans that are supportive of renewable energy. No Local Plan could not make provision for new building.

9. We welcome the removal of the effective veto contained in the phrase "fully addressed" in the proposed footnote 63. However there is no definition of "satisfactorily addressed" which is a subjective and manipulable concept. A local authority with a majority of elected members opposing onshore wind (and a significant number of rural authorities which are eminently suitable for wind may have such a majority) can easily remain 'unsatisfied' even in the face of significant community support.

10. The best way of resolving these issues is to remove all the footnotes replacing previous footnote 54, the proposed footnotes 62 and 63. This will help create a level playing field for onshore wind with other infrastructure under the planning system.

Do you have any views on specific wording for new footnote 62?

11. We believe that this footnote should be removed. None of the measures proposed offer a level or fair playing field with all other types of infrastructure and energy installations, including high carbon and polluting ones such as diesel peaking plants which have an easier passage through planning. The increased complexity and ambiguity of this proposed Footnote 62 only reinforces the different treatment of onshore wind despite its multifaceted benefits to energy security, net zero and communities.

12. The consultation document says; *"Local authorities have a range of routes to demonstrate their support for certain areas in their boundaries to be suitable for onshore wind, outside the overly rigid requirement for onshore wind sites to be designated in the development plan."* However it offers little consolation to developers in areas where local authorities do not want to

"demonstrate their support" for onshore wind because they do not support it. The wording of all the amendments offer opportunities for those authorities to continue to block onshore wind.

13. We welcome the inclusion of Local Development Orders as a route to planning, however, this must be prepared by the Local Planning Authority and therefore still requires a Local Planning Authority that is supportive of the development of wind in their area. Where the authority is supportive, it could speed projects through planning, however, where the authority is opposed, it could simply not be implemented.

14. In communication with Regen recently about Local Development Orders, they commented "I haven't found anyone who thinks this is a viable or quicker route to get planning permission for wind". They think similarly about the other routes to planning.

15. The opportunities offered for alternative routes to planning such as Neighbourhood Development Orders (NDOs) and Community Right to Build Orders (CRTBOs) do not present a materially enhanced pathway to planning permission for onshore wind. They will be used in a tiny minority of cases because of the difficult and protracted process to secure them. Occasionally an NDO may offer a town or parish council a way to go against the will of a higher tier authority to grant permission in its area. A CRTBO allows a community organisation to get de facto planning permission after getting more than 50% of support in a local referendum on its proposal. However, we do not know of a single example where this has proved a successful route to planning for an energy project.

16. Between 2011 and 2019, as far as we can ascertain[11], the number of CRTBOs is still in single figures and there have been two Neighbourhood Development Orders. In our experience, only very active communities can overcome the hurdles of convening Neighbourhood Forums, developing Neighbourhood Plans and conducting the required referenda. The process often divides as much as unites communities who get caught up in boundary disputes of what constitutes a Neighbourhood.

17. NDOs and CRTBOs can only be granted in respect of 'smaller scale' developments that do not constitute EIA development under the Environmental Impact Assessment Regulations 2017. A single wind turbine of up to 70m tip height is capable of being screened 'non-EIA'. However feedback from developers and communities indicates that in current economic circumstances it will be very challenging to develop single medium scale turbines (e.g. 225kW – 1MW) without a private wire or (possibly at the larger end with low connection and development costs) a local or licence exempt supply model. A single very big (4MW+) turbine can work but that means a tip height of 150m. A wind farm can work. In reality at risk development costs are in the hundreds of thousands, probably £1m for a wind farm.

18. Furthermore, there is no definition of the phrase "appropriately addressed", which may allow too much subjectivity in the planning committee and an opportunity to block projects which

[11] https://www.whatdotheyknow.com/request/572080/response/1381613/attach/html/2/Response%20some%20not%20held.pdf.html

actually have significant local support. (See similar point on “addressed satisfactorily” in question 41 above).

19. The meaning of “has community support” must also be defined. It is necessary to understand how this will be measured. For example, does there need to be a referendum, a majority of supportive letters to the planning authority, a survey from a community engagement exercise…? What degree of community support would allow a project to go ahead?

Q.44: Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?

> 161. To support energy efficiency improvements, significant weight should be given to the need to support energy efficiency improvements through the adaptation of existing buildings, particularly large non-domestic buildings, to improve their energy performance (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Proposals affecting conservation areas and listed buildings should also take into account the policies set out in chapter 16 of this Framework.

1. We support the encouragement of energy efficiency in the proposed paragraph 161 but giving “significant weight” to “the need to support energy efficiency improvements through the adaptation of existing buildings” falls short of the strong message that refurbishment, remodelling and retrofit of existing buildings should be the presumption.

2. Demolition should only be allowed where it is demonstrable that the current structure is unsafe or irremediable, or that redevelopment would produce carbon and social benefits in the very short term. Rigorous lifetime carbon analysis must be employed, accounting the embodied carbon and environmental impacts. Given the embodied carbon in existing buildings and the very high carbon emissions which would be caused by a new building, especially with concrete and steel, this condition is highly unlikely to be met. New build following demolition should be low embodied carbon or preferrably carbon embodying, i.e. timber frame, biomass insulation. It should be carbon negative in terms of operating emissions.

Signed by:

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Further Information:

Community Energy England (CEE) was established in 2014 to provide a voice for the community energy sector, primarily in England. Membership totals over 300 organisations. Many of the member organisations are community energy groups, but membership extends across a wide range of organisations that work with and support the community energy sector.

www.communityenergyengland.org